REESE LIBRARY
OF THE
UNIVERSITY OF CALIFORNIA.
Received February, 1894
Accessions No. 54527. Class No.

# A SCHOOL MANUAL

FOR THE USE OF

## Officers and Teachers

IN THE

## PUBLIC SCHOOLS OF CALIFORNIA

---

COMPRISING

THE CONSTITUTION OF THE UNITED STATES; THE CONSTITUTION OF CALIFORNIA; THE SCHOOL LAW OF CALIFORNIA; A DIGEST OF DECISIONS RENDERED BY THE SUPREME COURT ON MATTERS RELATING TO THE PUBLIC SCHOOLS; OPINIONS OF ATTORNEY-GENERALS ON SCHOOL QUESTIONS; AND OPINIONS RENDERED BY THE SEVERAL SUPERINTENDENTS OF PUBLIC INSTRUCTION FROM THE ADOPTION OF THE NEW CONSTITUTION TO THE PRESENT TIME.

---

COMPILED BY

JAMES WRIGHT ANDERSON

SUPERINTENDENT OF PUBLIC INSTRUCTION

LIBRARY
OF THE
UNIVERSITY
CALIFORNIA

SACRAMENTO:

1893

54527
COPYRIGHT, 1893,

BY

JAMES WRIGHT ANDERSON.

C25 A5
HEARST LIBRARY
OF THE
UNIVERSITY
CALIFORNIA

# PREFACE.

During my incumbency as Superintendent of Schools in San Francisco, and, more particularly, during the time occupied in my present position, have I felt the need of a reference book upon matters connected with the laws governing our public schools. The existence of this need on my own part induced me to undertake the compiling of this Manual. Notwithstanding my long experience as a teacher both in public and private schools, I found, on assuming the discharge of duties appertaining to the Superintendency, that I was comparatively unlettered in the law under which our public schools are organized, and that I knew but little regarding the many questions that are continually arising relative to the schools. Feeling my own need, and in order that I might enable myself to reply properly to the many and varied questions which were daily presented to me, I compiled for my own use and assistance the decisions of the Supreme Court upon school questions since the organization of the State; also the opinions of the several Attorney-Generals, and of my predecessors in this office. These I have diligently and carefully studied, and, having derived great benefit from the study, I venture to give opportunity for like benefit to others.

That there is great need on the part of school officers and teachers for a more thorough understanding of our school law, and of the mode of applying and executing it, there can be no doubt. I think I am within the limits of proper moderation in saying that fully one-half of the time

of the State Superintendent has to be devoted to answering interrogatories presented to him by trustees and teachers — questions not difficult to answer when one has the assistance of a proper book of reference. Even our Superintendents often find themselves under the necessity of seeking information from the State Superintendent, simply because no work has been, at any time, published in this State that would afford the desired assistance.

There are many collateral points of law which I desired to present; but I found that I could not include these without making the book too large for convenient use. For brevity's sake, also, I have omitted the index to the Decisions of the Supreme Court, and to the Opinions of the Attorney-Generals. The opinions expressed by my predecessors and myself, I have collated as well as possible under proper headings.

The volume is crude. I have not had time to make it any better. Such as it is I send it out in the hope that it may serve a useful purpose in aiding our Superintendents, our Trustees, and our Teachers, in obtaining a more complete understanding of our school law, and in relieving this office of much of the labor now imposed.

J. W. ANDERSON,
Superintendent of Public Instruction.

October 9th, 1893.

# INDEX TO CONSTITUTION UNITED STATES.


Page.

ARTICLE I—LEGISLATIVE DEPARTMENT..... 21
ARTICLE II—EXECUTIVE DEPARTMENT..... 29
ARTICLE III—JUDICIAL DEPARTMENT..... 33
ARTICLE IV—STATE ACTS..... 34
ARTICLE V—AMENDMENTS..... 35
ARTICLE VI—PROMISCUOUS PROVISIONS..... 36
ARTICLE VII—RATIFICATION OF, WHAT NECESSARY..... 37


## ARTICLE I.

### LEGISLATIVE DEPARTMENT.


SECTION 1. Legislative power, Congress..... 21
SECTION 2. House of Representatives..... 21
1. Members, when and by whom chosen..... 21
2. Qualifications..... 21
3. Apportionment of Representatives, and direct taxes..... 21
4. Vacancies..... 22
5. Speaker. Impeachment..... 22
SECTION 3. Senate..... 22
1. Senators..... 22
2. Divided into classes. Vacancies..... 22
3. Qualifications..... 23
4. President of Senate..... 23
5. Other officers..... 23
6. Impeachment..... 23
7. Judgment on impeachment..... 23
SECTION 4. Congress..... 24
1. Election for Senators and Representatives. 24
2. Sessions of Congress..... 24
SECTION 5. Powers of Houses of Congress..... 24
1. Judges of qualifications of their own members. Quorum..... 24
2. Rules of proceeding. Expulsions..... 24
3. Journals..... 24
4. Adjournments..... 24
SECTION 6. Compensation and duties of members..... 24
1. Compensation of members. Privileges of Senators and Representatives..... 24
2. Disabilities..... 25




UNIVERSITY

SECTION 7. Enactment of laws..... 25
1. Revenue bills. Where to originate..... 25
2. Manner of passage and President's approval. How passed without Pres. approval 25
3. Orders, resolutions, and votes. President's approval..... 26
SECTION 8. Powers of Congress..... 26
1. Taxes, duties, etc. Common defense and general welfare..... 26
2. To borrow money..... 26
3. To regulate commerce..... 26
4. Naturalization. Bankruptcies..... 26
5. Coining money. Weights and measures... 26
6. Punishment of counterfeiting..... 26
7. Post office and post roads..... 26
8. Patents and copyrights..... 27
9. Courts..... 27
10. Piracy and other offenses..... 27
11. To declare war, etc..... 27
12. Raising army..... 27
13. Navy..... 27
14. Army and navy regulations..... 27
15. Militia. Insurrection, etc..... 27
16. Organizing, arming, and disciplining militia 27
17. Exclusive legislative power over seat of government, forts, etc..... 27
18. To make laws necessary to carry powers into effect..... 27
SECTION 9. Limitation of the powers of Congress..... 28
1. Migration or importation of persons..... 28
2. Habeas corpus not to be suspended..... 28
3. Attainder and ex post facto laws prohibited 28
4. Capitation and direct taxes..... 28
5. Exports..... 28
6. Commercial regulations..... 28
7. Public moneys and accounts..... 28
8. Titles of nobility. Presents, etc..... 28
SECTION 10. Limitation of the powers of States..... 29
1. Treaties, letters of marque, coinage of money, bills of credit, etc., attainder, ex post facto laws, impairing contracts. Titles.. 29
2. Imposts or duties on imports or exports, etc. 29
3. Duties of tonnage, keeping troops in time of peace, engaging in war, treaties, etc.. 29

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. Powers of Executive..... 29
1. President and Vice-President. Terms of.. 29
2. Electors..... 29

3. Manner of choosing President by Electors. Superseded by Twelfth Amendment..... 30
4. Time of choosing Electors..... 30
5. President's qualifications..... 31
6. Vacancy in office of..... 31
7. Salary..... 31
8. Oath..... 31
SECTION 2. Other powers and duties..... 31
1. Act as Commander-in-Chief. Reprieves, pardons..... 31
2. To make treaties, how. Appointments... 32
3. To fill vacancies..... 32
SECTION 3. Messages to, and power of assembling and adjourning Congress. Reception of Embassadors, etc. Commissioning officers..... 32
SECTION 4. Removal of officers on impeachment..... 33

## ARTICLE III.

### JUDICIAL DEPARTMENT.

SECTION 1. Supreme and inferior Courts. Term of office and compensation of Judges..... 33
SECTION 2. Judicial Powers..... 33
1. Jurisdiction of Supreme Court..... 33
2. Original and appellate..... 33
3. Jury trials, when allowed..... 34
SECTION 3. Treason..... 34
1. Definition and evidence of..... 34
2. Punishment of..... 34

## ARTICLE IV.

### STATE ACTS.

SECTION 1. Evidence of acts and official records of States.. 34
SECTION 2. Privileges of citizens..... 34
1. Entitled to same alike in every State..... 34
2. Fugitives from justice..... 34
3. Fugitives from servitude..... 35
SECTION 3. New States..... 35
1. Admission of..... 35
2. Power of the United States over territorial and other property..... 35
SECTION 4. United States to guarantee to each State a republican form of government and protection against invasion..... 35

## ARTICLE V.

### AMENDMENTS.

SECTION 1. Manner of making amendments to Constitution. 35

## ARTICLE VI.

PROMISCUOUS PROVISIONS.

SECTION 1. General provisions..... 36
1. Debts..... 36
2. Supreme law of the land..... 36
3. Oath to support Constitution. No religious test..... 36

## ARTICLE VII.

RATIFICATION OF CONSTITUTION.

SECTION 1. What sufficient for ratification. ..... ..... 37

---

# INDEX TO AMENDMENTS TO CONSTITUTION U. S.

ARTICLE I. RESTRICTION ON POWER OF CONGRESS. ..... 38
ARTICLE II. RIGHT TO BEAR ARMS..... 38
ARTICLE III. BILLETING SOLDIERS..... 38
ARTICLE IV. SEIZURES, SEARCHES, AND WARRANTS.. .... 38
ARTICLE V. CRIMINAL PROCEEDINGS AND CONDEMNATION OF PROPERTY..... ... 38
ARTICLE VI. MODE OF TRIAL IN CRIMINAL PROCEEDINGS.. 39
ARTICLE VII. TRIAL BY JURY..... 39
ARTICLE VIII. BAILS—FINES—PUNISHMENTS..... 39
ARTICLE IX. CERTAIN RIGHTS NOT DENIED THE PEOPLE... 40
ARTICLE X. STATES RIGHTS..... 40
ARTICLE XI. JUDICIAL POWERS..... 40
ARTICLE XII. ELECTION OF PRESIDENT AND VICE-PRESIDENT 40
ARTICLE XIII. SLAVERY..... 41
ARTICLE XIV. CITIZENSHIP, REPRESENTATION, AND PAYMENT OF PUBLIC DEBT..... 42
ARTICLE XV. ELECTIVE FRANCHISE..... 43

## ARTICLE I.

RESTRICTION ON POWER OF CONGRESS.

SECTION 1. Free exercise of religion, speech, etc., and right of people to assemble..... 38

ARTICLE II.

RIGHT TO BEAR ARMS.

SECTION 1. Right not to be denied to people..... 38

ARTICLE III.

BILLETING OF SOLDIERS.

SECTION 1. No soldiers to be billeted, etc..... 38

ARTICLE IV.

SEIZURES, SEARCHES AND WARRANTS.

SECTION 1. Unreasonable searches, seizures and warrants prohibited..... 38

ARTICLE V.

CRIMINAL PROCEEDINGS AND CONDEMNATION OF PROPERTY.

SECTION 1. No person to be held to answer for certain crimes, except on indictment. Exception—not to be twice tried for same offense; not to be a witness against himself; right to compensation for property condemned..... 38

ARTICLE VI.

MODE OF TRIAL IN CRIMINAL PROCEEDINGS.

SECTION 1. Accused entitled to speedy trial; to confront witnesses; to have counsel; place of trial, etc. 39

ARTICLE VII.

TRIAL BY JURY.

SECTION 1. Right of trial by jury in civil actions..... 39

ARTICLE VIII.

BAILS—FINES—PUNISHMENTS.

SECTION 1. Not to be excessive..... 39

ARTICLE IX.

CERTAIN RIGHTS NOT DENIED TO THE PEOPLE.

SECTION 1. Rights of people not disparaged by Const'n... 40

ARTICLE X.

STATES RIGHTS.

SECTION 1. Certain powers reserved to the States or to the people..... 40

ARTICLE XI.

JUDICIAL POWERS.

SECTION 1. Limitation on ..... 40

## ARTICLE XII.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

SECTION 1. Manner of election, etc..... 40

## ARTICLE XIII.

SLAVERY.

SECTION 1. Slavery prohibited..... 41
SECTION 2. Enforcement of this article by Congress..... 42

## ARTICLE XIV.

CITIZENSHIP, REPRESENTATION, AND PAYMENT OF PUBLIC DEBT.

SECTION 1. Who are citizens—rights of..... ..... 42
SECTION 2. Apportionment of representation among the several States..... 42
SECTION 3. Certain persons disqualified from holding office; removal of disability; how effected..... 42
SECTION 4. Payment of public debt not to be questioned; debts incurred in aid of rebellion not to be assumed..... ..... 43
SECTION 5. Power of Congress to enforce this article..... 43

## ARTICLE XV.

ELECTIVE FRANCHISE.

SECTION 1. Right of all citizens to vote..... 43
SECTION 2. Power of Congress to enforce this article..... 43

# INDEX TO CONSTITUTION OF CALIFORNIA.


| | | Page. |
|---|---|---|
| ARTICLE | I—DECLARATION OF RIGHTS | 44 |
| ARTICLE | II—RIGHT OF SUFFRAGE | 48 |
| ARTICLE | III—DISTRIBUTION OF POWERS | 49 |
| ARTICLE | IV—LEGISLATIVE DEPARTMENT | 49 |
| ARTICLE | V—EXECUTIVE DEPARTMENT | 62 |
| ARTICLE | VI—JUDICIAL DEPARTMENT | 66 |
| ARTICLE | VII—PARDONING POWER | 75 |
| ARTICLE | VIII—MILITIA | 76 |
| ARTICLE | IX—EDUCATION | 77 |
| ARTICLE | X—STATE INSTITUTIONS AND PUBLIC BUILDINGS | 80 |
| ARTICLE | XI—CITIES, COUNTIES AND TOWNS | 81 |
| ARTICLE | XII—CORPORATIONS | 88 |
| ARTICLE | XIII—REVENUE AND TAXATION | 96 |
| ARTICLE | XIV—WATER AND WATER RIGHTS | 100 |
| ARTICLE | XV—HARBOR FRONTAGES, ETC. | 101 |
| ARTICLE | XVI—STATE INDEBTEDNESS | 101 |
| ARTICLE | XVII—LAND AND HOMESTEAD EXEMPTION | 102 |
| ARTICLE | XVIII—AMENDING AND REVISING THE CONSTITUTION | 103 |
| ARTICLE | XIX—CHINESE | 104 |
| ARTICLE | XX—MISCELLANEOUS SUBJECTS | 105 |
| ARTICLE | XXI—BOUNDARY | 108 |
| ARTICLE | XXII—SCHEDULE | 109 |


## ARTICLE I.

### DECLARATION OF RIGHTS.


| | | |
|---|---|---|
| SECTION 1. | Inalienable rights | 44 |
| 2. | Source of political power | 44 |
| 3. | State inseparable from the Union | 44 |
| 4. | Religious liberty | 44 |
| 5. | Habeas corpus | 45 |
| 6. | Bail for criminals | 45 |
| 7. | Right of trial by jury | 45 |
| 8. | Offenses, how prosecuted | 45 |
| 9. | Freedom of speech | 45 |
| 10. | Right of assembly | 46 |
| 11. | Laws uniform in operation | 46 |
| 12. | Military subordinate to civil power | 46 |
| 13. | Right of criminals on trial | 46 |
| 14. | Private property for public use | 47 |
| 15. | No imprisonment for debt | 47 |

16. No bill of attainder to be passed..... 47
17. Rights of foreigners..... 47
18. Slavery..... 47
19. Search..... 47
20. Treason..... 48
21. Special legislation..... 48
22. Provisions mandatory..... 48
23. Not to impair rights..... 48
24. Property qualification ..... 48

## ARTICLE II.

### RIGHT OF SUFFRAGE.

SECTION 1. Qualifications of voters..... 48
2. Privilege from arrest..... 49
3. Military duty..... 49
4. Loss of residence..... 49
5. Election by ballot..... 49

## ARTICLE III.

### DISTRIBUTION OF POWERS.

SECTION 1. Departments of government..... 49

## ARTICLE IV.

### LEGISLATIVE DEPARTMENT.

SECTION 1. Legislative power vested in Senate and Assem'y 49
2. Sessions of Legislature, when held..... 50
3. Members of assembly, when elected; term of office..... 50
4. Senators elected, when; term of office; qualifications..... 50
5. Number of Senators and Assemblymen. Sentors hold over..... 51
6. Legislative districts, how made..... 51
7. Each House to determine its own organization. 52
8. A quorum, what..... 52
9. Rules of proceeding; expulsion..... 52
10. Journal; yeas and nays..... 52
11. Privilege from arrest..... 52
12. Vacancies, how filled..... 52
13. Open session..... 52
14. Adjournment and recess..... 53
15. Bills, how passed..... 53
16. Bills, how affected by action of the Governor.. 53
17. Power of impeachment..... 54
18. Who may be impeached..... 54
19. Legislators not eligible to certain offices..... 55
20. United States officers not eligible to office..... 55
21. Embezzlers of public moneys..... 55

22. Money appropriated for what, and how drawn from the treasury..... 55
23. Compensation of members of Legislature..... 56
24. Subject of Act to be in title ..... 56
25. Prohibited legislation... ..... 57
26. Lotteries and stocks..... 59
27. Formation of congressional districts..... 59
28. Elections by Legislature..... 60
29. General appropriation bill to contain..... .... 60
30. Prohibits support of sects and sectarian schools 60
31. Public credit not to be given to corporations.. 60
32. Prohibits extra compensation to officers and contractors.... ..... ..... ..... 61
33. To regulate charges of public corporations.... 61
34. Appropriation bills to contain but one item.... 62
35. To punish bribery..... ..... 62

## ARTICLE V.

### EXECUTIVE DEPARTMENT.

SECTION 1. The Executive..... 62
2. How elected..... 62
3. Who eligible..... 63
4. Election, how made known..... 63
5. To be Commander-in-Chief..... 63
6. May require information..... ..... 63
7. Execute the laws..... 63
8. To fill certain vacancies... ..... 63
9. May convene the Legislature..... 64
10. Governor's message..... 64
11. May adjourn the Legislature, when..... 64
12. No person shall exercise the office..... 64
13. Shall have seal..... ..... ..... 64
14. Form of commission..... 64
15. Lieutenant Governor; qualifications and duties 64
16. May become Governor..... 65
17. State executive officers..... 65
18. Secretary of State..... 65
19. Compensation of executive officers..... 65
20. Governor ineligible to U. S. Senate..... 66

## ARTICLE VI.

### JUDICIAL DEPARTMENT.

SECTION 1. Consists of what..... 66
2. Supreme Court; how constituted, and mode of procedure..... ..... 66
3. Supreme Court elected, how..... ..... 68
4. Jurisdiction..... 69
5. Superior Court, jurisdiction of..... 69

6. Superior Courts; number of, and how organized 70
7. Number of sessions..... 71
8. Who may try causes..... 72
9. Judges not to leave the State. Number may be increased or diminished..... 72
10. Judicial officers, how removed..... 72
11. Justices of the Peace..... 73
12. Courts of record..... 73
13. Jurisdiction of inferior Courts..... 73
14. Clerks of Courts..... 73
15. Fees..... 74
16. Publication of opinions..... 74
17. Salaries..... 74
18. Ineligible to other office during term..... 74
19. Charge to jury..... 75
20. Style of process ..... 75
21. Supreme Court Reporter..... 75
22. Judges shall not practice law..... 75
23. Eligibility to office..... 75
24. Condition of receiving salary..... 75

ARTICLE VII.

PARDONING POWER.

SECTION 1. Who may pardon ..... 75

ARTICLE VIII.

MILITIA.

SECTION 1. Militia, how organized. Governor may call out 76
2. Flag..... 76

ARTICLE IX.

EDUCATION.

SECTION 1. Education to be encouraged..... 77
2. State Superintendent of Public Instruction .... 77
3. County Superintendent of Schools ..... 77
4. Lands appropriated to the support of schools. 77
5. Free school in every district..... 78
6. The public school system ..... 78
7. State text-books ..... 78
8. Sectarianism ..... 78
9. State University ..... 79

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

SECTION 1. State Board of Prison Directors..... 80
2. Powers and duties ..... 80
3. To appoint Warden and Clerk ..... 80
4. Compensation ..... 80
5. Acts of Legislature ..... 81
6. Convict labor ..... 81

## ARTICLE XI.

### CITIES, COUNTIES AND TOWNS.

SECTION 1. Counties recognized ..... 81
2. County seat removed ..... 81
3. Establishment of new counties ..... 81
4. System of county governments ..... 81
5. County officers ..... 82
6. Special municipal corporations prohibited .... 82
7. Consolidation of city and county governments. 83
8. City of more than 10,000 inhabitants may frame charter by election of Board of Freeholders. 83
9. Compensation of officers not to be increased.. 86
10. Taxes not to be released ..... 86
11. Make and enforce local laws ..... 86
12. Legislature may not tax for local purposes .... 86
13. Municipal power not to be delegated ..... 87
14. State officers may not act as inspectors of merchandise ..... 87
15. Private property not liable for corporate debt. 87
16. Treasurer to be custodian of all moneys ..... 87
17. Use of public money by officers a felony ..... 87
18. Two-thirds vote required to incur indebtedness beyond annual income ..... 87
19. Public works by individuals ..... 88

## ARTICLE XII.

### CORPORATIONS.

SECTION 1. Corporations, how formed and regulated ..... 88
2. Dues to be secured, how ..... 89
3. Liability of stockholders and directors ..... 89
4. "Corporations" explained. Rights of suit .... 89
5. Banks not to be chartered ..... 89
6. Repeal of existing charters ..... 89
7. Franchise not to be extended nor forfeiture remitted ..... 90
8. Property of corporations subject to same laws as individual property ..... 90
9. Limitation of the business of corporations .... 90
10. Owners of franchises not to be released by transfer ..... 90
11. Issuance of stock ..... 90
12. Directors, how elected ..... 91
13. State credit may not be loaned ..... 91
14. Shall have office in the State. Record of stocks open for inspection ..... 91
15. Foreign corporations ..... 91
16. Where a corporation may be sued ..... 92
17. Common carriers, duties ..... 92

18. Interest of an officer or agent limited..... 92
19. Public officers may not receive passes ..... 92
20. Earnings not to be shared. Rates not to be increased ..... 93
21. Discrimination forbidden ..... ..... 93
22. Railroad Commissioners; number, how elected. Qualifications. Powers and duties. Failure to conform to rates, how punished. Legislature may remove Commissioners ..... 93
23. Constitution of railroad districts ..... 95
24. Legislature shall enfore ..... 96

## ARTICLE XIII.

### REVENUE AND TAXATION.

SECTION 1. Property taxed according to value. Property includes what ..... 96
2. Land, how assessed ..... 96
3. Sectionized land, how assessed ..... 97
4. Taxation of mortgage interests. Effect of payment by owner or security holder ..... 97
5. Contract to pay tax on borrowed money void . 97
6. Power of taxation not to be impaired ..... 98
7. Installments ..... 98
8. Property to be certified under oath ..... 98
9. State Board of Equalization, how constituted. Duties. Controller a member ex-officio ..... 98
10. Property, by whom assessed..... ..... 99
11. Income taxes ..... 99
12. Poll tax ..... 99
13. Legislature to enforce .....100

## ARTICLE XIV.

### WATER AND WATER RIGHTS.

SECTION 1. Water rights subject to control of the State. Rates to be fixed annually. Penalty for non-compliance with rules.....100
2. Water rights a franchise.....101

## ARTICLE XV.

### HARBOR FRONTAGES, ETC.

SECTION 1. Right of the State to frontages .....101
2. Access to navigable waters not to be obstructed.101
3. Tide lands not to be sold .....101

## ARTICLE XVI.

### STATE INDEBTEDNESS.

SECTION 1. Liabilities exceeding $300,000, how created...101

## ARTICLE XVII.

### LAND AND HOMESTEAD EXEMPTION.

SECTION 1. Homestead exemption .....102
2. Large land holdings discouraged .....102
3. State lands to actual settlers .....102

## ARTICLE XVIII.

### AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Amendments, how made ..... 103
2. Convention to revise, how called. Convention, how constituted. Revision, how ratified ....103

## ARTICLE XIX.

### CHINESE.

SECTION 1. Protection against dangerous aliens .....104
2. Corporations not to employ Chinese .....105
3. No Chinese on public works .....105
4. Chinese immigration to be discouraged ..... 105

## ARTICLE XX.

### MISCELLANEOUS SUBJECTS.

SECTION 1. Capital of the State, how changed.....105
2. Prohibits dueling ... ..... .... .....106
3. Oath of office..... ..... .....106
4. Offices created by Legislature .....106
5. Fiscal year .....106
6. Suits vs. the State.... .....106
7. Marriage contracts .....107
8. Separate property .....107
9. Perpetuities .....107
10. Disqualification for bribery. .....107
11. Elections protected against fraud .....107
12. Residence .....107
13. Plurality .....107
14. State Board of Health..... .....107
15. Mechanics' lien ..... ....107
16. Terms of officers not herein provided for .....108
17. A day's work .....108
18. Sex no disability .....108
19. Expenses of Constitutional Convention .....108
20. Election of officers, when .....108

## ARTICLE XXI.

### BOUNDARY.

SECTION 1. Boundary of the State..... .. .....108

## ARTICLE XXII.

### SCHEDULE.

SECTION 1. Laws in force previous to this Convention ....109
2. Existing obligations and proceedings not impaired ....110
3. Courts abolished ....110
4. Superintendent of Printing to print Constitution. Governor to issue proclamation ....110
5. Superintendent of State Printing to print ballots ....111
6. Clerks of Counties to provide poll books ....111
7. Who may vote ....112
8. Returns, how canvassed ....112
9. Governor to canvass and issue proclamation ..113
10. Terms of officers first elected ....113
11. Present laws applicable until changed ....113
12. When to go into effect ....113

REESE LIBRARY
UNIVERSITY
CALIFORNIA

# CONSTITUTION OF THE UNITED STATES.

## PREAMBLE.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I.

### Section 1.

1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

### Section 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. [Representatives and direct taxes shall be apportioned among the several States which may be included

within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, Georgia three.]

This clause has been superseded, so far as it relates to representation, by section two of the Fourteenth Amendment to the Constitution

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

SECTION 3.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years, and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the

Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no voice unless they shall be equally divided.

5. The Senate shall choose their other officers, and have a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SECTION 4.

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SECTION 5.

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the ayes and noes of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law,

and paid out of the Treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate, in either house, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

### Section 7.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by the ayes and noes; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively.

If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8.

1. The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

5. To coin money, regulate the value thereof, and of foreign coins, and fix the standard of weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post offices and post roads.

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas, and offenses against the laws of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers,

and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SECTION 9.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State.

### Section 10.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

## ARTICLE II.

### Section 1.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

3. [The Electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the President. But, in choosing the President, the vote shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.]

This clause has been superseded by the Twelfth Amendment to the Constitution.

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President. neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

8. Before he enters on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SECTION 2.

1. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive

departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint Embassadors, and other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers as they may think proper in the President alone, in the Courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

### Section 3.

1. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive Embassadors and other public Ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

### Section 4.

1. The President, Vice-President, and all civil officers of the United States shall be removed from office, on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III.

### Section 1.

1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may, from time to time, ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

### Section 2.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Embassadors, other public Ministers and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

2. In all cases affecting Embassadors, other public Ministers and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court

shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be put at such place or places as the Congress may, by law, have directed.

### Section 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

2. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

3. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

## ARTICLE IV.

### Section 1.

1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

### Section 2.

1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found

in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

### Section 3.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

### Section 4.

1. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

## ARTICLE V.

### Section 1.

1. The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this

Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; *provided*, that no amendment which may be made prior to the year one thousand eight hundred and eight shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

## ARTICLE VI.

### Section 1.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

### SECTION 1.

1. The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

DONE in Convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

GEORGE WASHINGTON,
*President, and Deputy from Virginia.*

*New Hampshire.*
JOHN LANGDON,
NICHOLAS GILMAN.

*Massachusetts.*
NATHANIEL GORHAM,
RUFUS KING.

*Connecticut.*
WILLIAM SAMUEL JOHNSON,
ROGER SHERMAN.

*New York.*
ALEXANDER HAMILTON.

*New Jersey.*
WILLIAM LIVINGSTON,
DAVID BREARLY,
WILLIAM PATTERSON,
JONATHAN DAYTON.

*Pennsylvania.*
BENJAMIN FRANKLIN,
THOMAS MIFFLIN,
ROBERT MORRIS,
GEORGE CLYMER,
THOMAS FITZSIMONS,
JARED INGERSOLL,
JAMES WILSON,
GOUVERNEUR MORRIS.

*Delaware.*
GEORGE READ,
GUNNING BEDFORD, JR.,
JOHN DICKINSON,
RICHARD BASSETT,
JACOB BROOM.

*Maryland.*
JAMES MCHENRY,
DANIEL OF ST. TH. JENIFER,
DANIEL CARROLL.

*Virginia.*
JOHN BLAIR,
JAMES MADISON, JR.

*North Carolina.*
WILLIAM BLOUNT,
RICHARD DOBBS SPAIGHT,
HUGH WILLIAMSON.

*South Carolina.*
JOHN RUTLEDGE,
CHARLES C. PINCKNEY,
CHARLES PINCKNEY.
PIERCE BUTLER.

*Georgia.*
WILLIAM FEW,
ABRAHAM BALDWIN.

Attest: WILLIAM JACKSON, *Secretary.*

# AMENDMENTS.

## ARTICLE I.

SECTION 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.—*Proposed September 25, 1789; ratified December 15, 1791.*

## ARTICLE II.

SECTION 1. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.—*Id.*

## ARTICLE III.

SECTION 1. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.—*Id.*

## ARTICLE IV.

SECTION 1. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon reasonable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.—*Id.*

## ARTICLE V.

SECTION 1. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment

or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war, or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.—*Id.*

## ARTICLE VI.

SECTION 1. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.—*Id.*

## ARTICLE VII.

SECTION 1. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by jury, shall be otherwise re-examined in any Court of the United States than according to the rules of common law.—*Id.*

## ARTICLE VIII.

SECTION 1. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.—*Id.*

## ARTICLE IX.

SECTION 1. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.—*Id.*

## ARTICLE X.

SECTION 1. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.—*Id.*

## ARTICLE XI.

SECTION 1. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by the citizens of another State, or by citizens or subjects of any foreign State.—*Proposed March 5, 1794; ratified January 8, 1798.*

## ARTICLE XII.

SECTION 1. The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open

all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such a number be a majority of the whole number of Electors appointed; and if no person have such a majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.—*Proposed December 12, 1803; ratified September 25, 1804.*

## ARTICLE XIII.

SECTION 1. Neither slavery or involuntary servitude, except as a punishment for crime whereof the party shall

FREE UNIVERSITY OF CALIFORNIA

have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.—*Declared ratified December 18, 1865.* (*U. S. Statutes at Large, Vol. 13, p. 775.*)

## ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President,

or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States or any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.—*Declared ratified July 28, 1868.* (*U. S. Statutes at Large, Vol. 15, pp. 709–11.*)

## ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.—*U. S. Statutes at Large, Vol. 15, p. 346.*

# CONSTITUTION OF THE STATE OF CALIFORNIA.

Adopted in Convention at Sacramento, March 3, A. D. 1879; submitted to and ratified by the people May 7, 1879.

## PREAMBLE AND DECLARATION OF RIGHTS.

### PREAMBLE.

We, the people of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

## ARTICLE I.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State, and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or

justify practices inconsistent with the peace or the safety of the State.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require the suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishment be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to felony, by the consent of both parties, expressed in open Court, and in civil actions by the consent of the parties, signified in such maner as may be prescribed by law. In civil actions, and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury

that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers, shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the Court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason

to believe that the witness, from inability or other causes, will not attend at the trial.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into Court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a Court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt in any civil action, or mesne or final process, unless in case of fraud, nor in civil actions for torts, except in cases of willful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts, shall ever be passed.

SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secured in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or

affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature, nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

## ARTICLE II.

SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, insane person, or person convicted of any infamous crime,

and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privilege of an elector in this State.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept in any almshouse or other asylum, at public expense; nor while confined in any public prison.

SEC. 5. All elections by the people shall be by ballot.

## ARTICLE III.

SECTION 1. The powers of the Government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

## ARTICLE IV.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated the Legislature of the State of California, and the enacting

clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

SEC. 2. The sessions of the Legislature shall commence at twelve o'clock M. on the first Monday after the first day of January next succeeding the election of its members, and, after the election held in the year eighteen hundred and eighty, shall be biennial, unless the Governor shall, in the interim, convene the Legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this Constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced in either house after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two thirds of the members thereof.

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly, after the adoption of this Constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one Senator, and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty, in the same order, commencing at the northern boundary of the State, and ending at the southern boundary thereof. In the formation of such districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first session after each census, adjust such districts and reapportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citi-

zens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law.

SEC. 7. Each house shall choose its officers, and judge of the qualifications, elections, and returns of its members.

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall determine the rule of its proceeding, and may, with the concurrence of two-thirds of all its members elected, expel a member.

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either house draw pay for any recess or adjournment for a longer time than three days.

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in a case of urgency, two-thirds of the house where such bill may be pending, shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the journal, and no bill shall become a law without the concurrence of a majority of the members elected to each house.

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, two-thirds of the members elected to each house voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case

it shall not become a law, unless the Governor, within ten days after such adjournment (Sundays excepted) shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriations so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the house in which the bill originated, a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members elected.

SEC. 18. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Chief Justice and Associate Justices of the Supreme Court, and Judges of the Superior Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil

officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

SEC. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, who receive no annual salary, local officers, or postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State Treasury for the use and benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of this Constitution, the Legislature shall have the power to grant aid to institutions conducted for the

support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided further*, that the State shall have, at any time, the right to inquire into the management of such institution; *provided further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town, shall be entitled to receive the same *pro rata* appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached and published with the laws at every regular session of the Legislature.

SEC. 23. The members of the Legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem shall not exceed eight dollars, and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. No increase in compensation or mileage shall take effect during the term for which the members of either house shall have been elected, and the pay of no attaché shall be increased after he is elected or appointed.

SEC. 24. Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the Act revised or section amended shall be re-en-

acted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

*First*—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

*Second*—For the punishment of crimes and misdemeanors.

*Third*—Regulating the practice of Courts of justice.

*Fourth*—Providing for changing the venue in civil or criminal actions.

*Fifth*—Granting divorces.

*Sixth*—Changing the names of persons or places.

*Seventh*—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plots, parks, cemeteries, graveyards, or public grounds not owned by the State.

*Eighth*—Summoning and impaneling grand and petit juries, and providing for their compensation.

*Ninth*—Regulating county and township business, or the election of county or township officers.

*Tenth*—For the assessment or collection of taxes.

*Eleventh*—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

*Twelfth*—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

*Thirteenth*—Extending the time for the collection of taxes.

*Fourteenth*—Giving effect to invalid deeds, wills, or other instruments.

*Fifteenth*—Refunding money paid into the State Treasury.

*Sixteenth*—Releasing, or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

*Seventeenth*—Declaring any person of age, or authorizing any minor to sell, lease, or incumber his or her property.

*Eighteenth*—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

*Nineteenth*—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

*Twentieth*—Exempting property from taxation.

*Twenty-first*—Changing county seats.

*Twenty-second*—Restoring to citizenship persons convicted of infamous crimes.

*Twenty-third*—Regulating the rate of interest on money.

*Twenty-fourth*—Authorizing the creation, extension, or impairing of liens.

*Twenty-fifth*—Chartering or licensing ferries, bridges, or roads.

*Twenty-sixth*—Remitting fines, penalties, or forfeitures.

*Twenty-seventh*—Providing for the management of common schools.

*Twenty-eighth*—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, township, election, or school districts.

*Twenty-ninth*—Affecting the fees or salary of any officer.

*Thirtieth*—Changing the law of descent or succession.

*Thirty-first*—Authorizing the adoption or legitimation of children.

*Thirty-second*—For limitation of civil or criminal actions.

*Thirty-third*—In all other cases where a general law can be made applicable.

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, or stock market under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin, or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party paying it by suit in any Court of competent jurisdiction.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where the one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district, shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county,

or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

SEC. 28. In all elections by the Legislature the members thereof shall vote viva voce, and the votes shall be entered on the Journal.

SEC. 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the State officers, and expenses of the government, and of the institutions under the exclusive control and management of the State.

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

SEC. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corpor-

ation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, or any public money or thing of value, to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate or limit such rates, no person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

SEC. 34. No bill making an appropriation for money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office of public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

## ARTICLE V.

SECTION 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.

SEC. 2. The Governor shall be elected by the qualified electors at the time and place of voting for members of the

Assembly, and shall hold his office four years from and after the first day of January subsequent to his election, and until his successor is elected and qualified.

SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.

SEC. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in the presence of both houses of the Legislature. The person having the highest number of votes shall be Governor; but, in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both houses, choose one of such persons having an equal and the highest number of votes for Governor.

SEC. 5. The Governor shall be Commander-in-Chief of the militia, the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that all the laws are faithfully executed.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto.

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 11. In case of disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature.

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided.

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 15. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor, and his term of office and his qualifications of eligibility shall also be the same. He shall be the President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties

of his office, or be absent from the State, the President *pro tempore* of the Senate shall act as Governor until the vacancy be filled or the disability shall cease. The Lieutenant-Governor shall be disqualified from holding any other office, except as specially provided in this Constitution, during the term for which he shall have been elected.

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall continue Commander-in-Chief of all the military forces of the State.

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney-Generai, and a Surveyor-General shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor, and their terms of office shall be the same as that of the Governor.

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

SEC. 19. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the

two terms next ensuing the adoption of this Constitution, as follows: Governor, six thousand dollars per annum; Lieutenant-Governor, the same per diem as may be provided by law for the Speaker of the Assembly, to be allowed only during the session of the Legislature; the Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General, three thousand dollars each per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective terms of office; *provided, however,* that the Legislature, after the expiration of the terms hereinbefore mentioned, may by law diminish the compensation of any or all such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding sixteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor-General; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

SEC. 20. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States.

## ARTICLE VI.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city, or town, or city and county.

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in

departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any

time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

SEC. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general State elections, at the times and places at which the State officers are elected; and the term of office shall be twelve years, from and after the first Monday after the first day of January next succeeding their election; *provided*, that the six Associate Justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the Court in bank, signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. If a vacancy occur in the office of a Justice, the Governor shall appoint a person to hold the office until the election

and qualification of a Justice to fill the vacancy, which election shall take place at the next succeeding general election, and the Justice so elected shall hold the office for the remainder of the unexpired term. The first election of the Justices shall be at the first general election after the adoption and ratification of this Constitution.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity, except such as arise in Justices' Courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in cases of forcible entry and detainer, and in proceedings in insolvency, and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also, in all criminal cases prosecuted by indictment or information in a Court of record on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual costody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the State, or before any judge thereof.

SEC. 5. The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases

amounting to felony, and in cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases of proceedings as are not otherwise provided for. And said Court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in Justices' and other inferior Courts in their respective counties as may be prescribed by law. They shall always be open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated. Said Courts, and their Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

SEC. 6. There shall be in each of the organized counties, or cities and counties, of the State, a Superior Court, for each of which at least one Judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one Judge shall be elected for the Counties of Yuba and Sutter, and that in the City and County of San Francisco there shall be elected twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The

said Judges shall choose, from their own number, a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided at such session. In each of the Counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda there shall be elected two such Judges. The term of office of Judges of the Superior Courts shall be six years from and after the first Monday of January next succeeding their election; *provided*, that the twelve Judges of the Superior Court elected in the City and County of San Francisco, at the first election held under this Constitution, shall at their first meeting so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitution. If a vacancy occur in the office of Judge of a Superior Court, the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.

SEC. 7. In any county, or city and county, other than the City and County of San Francisco, in which there

shall be more than one Judge of the Superior Court, the Judges of such Court may hold as many sessions of said Court at the same time as there are Judges thereof, and shall apportion the business among themselves as equally as may be.

SEC. 8. A Judge of any Superior Court may hold a Superior Court in any county, at the request of a Judge of the Superior Court thereof; and upon request of the Governor it shall be his duty so to do. But a cause in the Superior Court may be tried by a Judge *pro tempore*, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the Court, and sworn to try the cause.

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may, at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall effect any Judge who has been elected.

SEC. 10. The Justices of the Supreme Court and Judges of the Superior Courts may be removed by concurrent resolution of both houses of the Legislature, adopted by a two-thirds vote of each house. All other judicial officers, except Justices of the Peace, may be removed by the Senate on the recommendation of the Governor, but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him, and shall have had an opportunity of

being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journal.

SEC. 11. The Legislature shall determine the number of Justices of the Peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of Justices of the Peace; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record, except that said Justices shall have concurrent jurisdiction with the Superior Courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of the liens nor the value of the property amounts to three hundred dollars.

SEC. 12. The Supreme Court, the Superior Courts, and such other Courts as the Legislature may prescribe, shall be Courts of record.

SEC. 13. The Legislature shall fix by law the jurisdiction of any inferior Courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the Judges thereof.

SEC. 14. The Legislature shall provide for the election of a Clerk of the Supreme Court, and shall fix by law his duties and compensation, which compensation shall not be increased or diminished during the term for which he shall have been elected. The County Clerks shall be *ex officio* Clerks of the Courts of record in and for their respective counties, or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more Commissioners in their respective counties, or cities and counties, with authority to perform

chamber business of the Judges of the Superior Courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 15. No judicial officer, except Justices of the Peace and Court Commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient, and all opinions shall be free for publication by any person.

SEC. 17. The Justices of the Supreme Court and Judges of the Superior Courts shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election, nor during the term for which they shall have been elected. The salaries of the Justices of the Supreme Court shall be paid by the State. One-half of the salary of each Superior Court Judge shall be paid by the State; the other half thereof shall be paid by the county for which he is elected. During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be six thousand dollars each. Until otherwise changed by the Legislature, the Superior Court Judges shall receive an annual salary of three thousand dollars each, payable monthly, except the Judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, who shall receive four thousand dollars each.

SEC. 18. The Justices of the Supreme Court and Judges of the Superior Courts shall be ineligible to any other office or public employment than a judicial office or em-

ployment during the term for which they shall have been elected.

SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 20. The style of all process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 21. The Justices shall appoint a Reporter of the decisions of the Supreme Court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.

SEC. 22. No Judge of a Court of record shall practice law in any Court of this State during his continuance in office.

SEC. 23. No one shall be eligible to the office of Justice of the Supreme Court, or to the office of Judge of a Superior Court, unless he shall have been admitted to practice before the Supreme Court of the State.

SEC. 24. No Judge of a Superior Court, nor of the Supreme Court, shall, after the first day of July, one thousand eight hundred and eighty, be allowed to draw or receive any monthly salary unless he shall take and subscribe to an affidavit before an officer entitled to administer oaths, that no cause in his Court remains undecided that has been submitted for decision for the period of ninety days.

## ARTICLE VII.

SECTION 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions. and with such restric-

tions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

## ARTICLE VIII.

SECTION 1. The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall, from time to time, direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms, either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

## ARTICLE IX.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

SEC. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

SEC. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one Superintendent for the counties so uniting.

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools, which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

SEC. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the Legislature, or by municipal or district authority; but the entire revenue derived from the State School Fund, and the State school tax, shall be applied exclusively to the support of primary and grammar schools.

SEC. 7. The Governor, Superintendent of Public Instruction, and the Principals of the State Normal Schools, shall constitute the State Board of Education, and shall compile, or cause to be compiled, and adopt a uniform series of text-books for use in the common schools throughout the State. The State Board may cause such text-books, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office, and when so printed and published, to be distributed and sold at the cost price of printing, publishing, and distributing the same. The text-books so adopted shall continue in use not less than four years; and said State Board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a Board of Education in each county in the State. The County Superintendents and the County Boards of Education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [*Amendment, approved March 15, 1883: ratified at the general election November 4, 1884.*]

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or

any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

SEC. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several Acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its Regents, and in the administration of its affairs; *provided*, that all the moneys derived from the sale of the public lands donated to this State by Act of Congress, approved July second, eighteen hundred and sixty-two (and the several Acts amendatory thereof), shall be invested as provided by said Acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one College of Agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said Acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so

lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex.

## ARTICLE X.

SECTION 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the Directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard on written charges.

SEC. 2. The Board of Directors shall have the charge and superintendence of the State Prisons, and shall possess such powers and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

SEC. 3. The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the prisons. The Board shall have power to remove the Wardens and Clerks for misconduct, incompetency, or neglect of duty. All other officers and employés of the prisons shall be appointed by the Warden thereof, and be removed at his pleasure.

SEC. 4. The members of the Board shall receive no compensation, other than reasonable traveling and other ex-

penses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article.

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

## ARTICLE XI.

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

SEC. 2. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand, nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken.

SEC. 4. The Legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township

organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made and the business of such county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

SEC. 5. The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of Boards of Supervisors, Sheriffs, County Clerks, District Attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, shall be subject to and controlled by general laws.

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or not prohibited to cities, shall be applicable to such consolidated government. In consolidated city and county governments, of more than one hundred thousand population, there shall be two Boards of Supervisors or houses of legislation—one of which, to consist of twelve persons, shall be elected by general ticket from the city and county at large, and shall hold office for the term of four years, but shall be so classified that after the first election only six shall be elected every two years; the other, to consist of twelve persons, shall be elected every two years, and shall hold office for the term of two years. Any vacancy occurring in the office of Supervisor, in either Board, shall be filled by the Mayor or other chief executive officer.

SEC. 8. Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive officer of such city, and the other to the Recorder of Deeds of the county. Such supposed charter shall then be published in two

daily papers of general circulation in such city for at least twenty days, and within not less than thirty days after such publication it shall be submitted to the qualified electors of such city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the Secretary of State, the other, after being recorded in the office of the Recorder of Deeds of the county, among the archives of the city; all Courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. Any city containing a population of more than ten thou-

sand and not more than one hundred thousand inhabitants, may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive of said city, and the other to the Recorder of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city, for at least twenty days; and the first publication shall be made within twenty days after the completion of the charter; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city, at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without alteration or amendment; and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, and the organic law thereof, and shall supersede any existing charter, and any amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall be made in duplicate, and deposited, one in the office of Secretary of State, and the other, after being recorded in said Recorder's office, shall be deposited in the archives of

the city; and thereafter all Courts shall take judicial notice of said charter. The charter so ratified may be amended, at intervals of not less than two years, by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. — *Amendment adopted April* 12, 1887.

SEC. 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

SEC. 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

SEC. 12. The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate au-

thorities thereof the power to assess and collect taxes for such purposes.

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association, or individual any power to make, control, appropriate, supervise, or in any way interfere with any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

SEC. 14. No State office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture or commodity; but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the Treasurer, or other legal depository, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

SEC. 18. No county, city, town, township, Board of Education, or school district shall incur any indebtedness or

liability in any manner, or for any purpose, exceeding in any one year the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

SEC. 19. In any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this State, shall, under the direction of the Superintendent of Streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gaslight or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof. [Amendment adopted November 4, 1884.]

## ARTICLE XII.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special Act. All laws

now in force in this State concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred, during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation or association. The directors or trustees of corporations or joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation or joint-stock association, during the term of such director or trustee.

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

SEC. 5. The Legislature shall have no power to pass any Act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put into circulation, as money, anything but the lawful money of the United States.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and *bona fide* organization shall not have taken place, and business

been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 7. The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist, under the laws of this State.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall engage in any business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate except such as may be necessary for carrying on its business.

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

SEC. 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting

called for that purpose, giving sixty days' public notice, as may be provided by law.

SEC. 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he may think fit; and such directors or managers shall not be elected in any other manner, except that members of co-operative societies formed for agricultural, mercantile, and manufacturing purposes may vote on all questions affecting such societies in manner prescribed by law.

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to or be interested in the stock of any company, association, or corporation.

SEC. 14. Every corporation, other than religious, educational, or benevolent, organized or doing business in this State, shall have and maintain an office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept for inspection, by every person having an interest therein, and legislative committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and place of residence of its officers.

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this

State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the Court to change the place of trial as in other cases.

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

SEC. 18. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket by a member of the Legislature or any public

officer, other than Railroad Commissioner, shall work a forfeiture of his office.

SEC. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 22. The State will be divided into three districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Mon-

day after the first day of January next succeeding their election. Said Commissioners shall be qualified electors of this State and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney, or employé; and the act of a majority of said Commissioners shall be deemed the act of said Commission. Said Commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpœnas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as Courts of record, and enforce their decisions and correct abuses through the medium of the Courts. Said Commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such Commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the Commission, shall be fined not exceeding twenty thousand dollars for each offense; and every officer, agent, or employé of any such corporation or company, who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not

exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said Commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the Judge or jury, recover exemplary damages. Said Commission shall report to the Governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The Legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the Commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The Legislature shall have power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said Commissioners from office for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said Commission, the Governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

Sec. 23. Until the Legislature shall district the State, the following shall be the railroad districts: The First District shall be composed of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and

Yuba, from which one Railroad Commissioner shall be elected. The Second District shall be composed of the Counties of Marin, San Francisco, and San Mateo, from which one Railroad Commissioner shall be elected. The Third District shall be composed of the Counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one Railroad Commissioner shall be elected.

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

## ARTICLE XIII.

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in case of credits secured by mortgage or trust deed, for a reduction from credits of debts due bona fide residents of this State.

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land of the same quality, and similarly situated, shall be assessed at the same value.

SEC. 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purpose of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other quasi-public corporations, in case of debt so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid to either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment, a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy of the preceding year.

SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as

to any interest specified therein, and as to such tax or assessment, be null and void.

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

SEC. 8. The Legislature shall by law require each taxpayer in the State to make and deliver to the County Assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian on the first Monday of March.

SEC. 9. A State Board of Equalization, consisting of one member from each Congressional District in this State, as the same existed in eighteen hundred and seventy-nine, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year one thousand eight hundred and eighty-six, and at each gubernatorial election thereafter, whose term of office shall be for four years, whose duty it shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. The Controller of State shall be *ex officio* a member of the Board. The Boards of Supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the County Boards may prescribe as to the action of the State Board, to increase or lower the entire assessment roll, or any assessment contained therein,

so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present State Board of Equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The Legislature shall have power to redistrict the State into four districts, as nearly equal in population as practical, and to provide for the elections of members of said Board of Equalization.—*Amendment adopted November* 4, 1884.

SEC. 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township, or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships, and districts in which such railways are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

SEC. 12. The Legislature shall provide for the levy and collection of an annual poll tax, of not less than two dollars, on every male inhabitant of this State over twenty-one

and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State School Fund.

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

## ARTICLE XIV.

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this State for the use of water supplied to any city and county, or city, or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or City and County, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances, or legislative acts, or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person,

company, or corporation to the city and county, or city or town, where the same are collected, for the public use.

SEC. 2. The right to collect rates or compensate for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

## ARTICLE XV.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 3. All tide lands within two miles of any incorporated city or town of this State and fronting on the waters of any harbor, estuary, bay, or inlet, used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

## ARTICLE XVI.

SECTION 1. The Legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand

dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people. The Legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

## ARTICLE XVII.

SECTION 1. The Legislature shall protect, by law, from forced sale, a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Lands belonging to this State, which are suit-

able for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

## ARTICLE XVIII.

SECTION 1. Any amendment of amendments to this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this Constitution.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legisla-

ture, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election, at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

## ARTICLE XIX.

SECTION 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and provide the means and mode of their removal from the State, upon failure and refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary.

SEC. 2. No corporation now existing or hereafter formed under the laws of this State, shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

SEC. 4. The presence of foreigners eligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of the Constitution. This section shall be enforced by appropriate legislation.

## ARTICLE XX.

SECTION 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qual-

ified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

SEC. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of——— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office of public trust.

SEC. 4. All officers or Commissioners whose election or appointment is not provided for by this Constitution, and all officers or Commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

SEC. 5. The fiscal year shall commence on the first day of July.

SEC. 6. Suits may be brought against the State in such manner and in such Courts as shall be directed by law.

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 8. All property, real and personal, owned by either husband or wife, before marriage, and that acquired by either of them afterward by gift, devise, or descent, shall be their separate property.

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from the State, on business of the State, or of the United States, shall not affect the question of residence of any person.

SEC. 13. A plurality of the votes given at any election shall constitute a choice, where otherwise not directed in this Constitution.

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health.

SEC. 15. Mechanics, material-men, artisans, and laborers of every class shall have a lien upon the property upon which they have bestowed labor or furnished material, for the value of such labor done and material furnished ; and

the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SEC. 16. When the term of any officer or Commissioner is not provided for in this Constitution, the term of such officer or Commissioner may be declared by law; and, if not so declared, such officer or Commissioner shall hold his position as such officer or Commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years.

SEC. 17. Eight hours shall constitute a legal day's work on all public work.

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the Convention framing this Constitution, including the per diem of the delegates for the full term thereof.

SEC. 20. Elections of the officers, provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

## ARTICLE XXI.

SECTION 1. The boundary of the State of California shall be as follows: Commencing at a point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Green-

wich, and running south on the line of said one hundred and twentieth degree west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also including all the islands, harbors, and bays along and adjacent to the coast.

## ARTICLE XXII.

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordered and declared:

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions

of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

SEC. 2. That all recognizances, obligations, and all other instruments, entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

SEC. 3. All Courts now existing, save Justices' and Police Courts, are hereby abolished; and all records, books, papers, and proceedings from such Courts, as are abolished by this Constitution, shall be transferred, on the first day of January, eighteen hundred and eighty, to the Courts provided for in this Constitution; and the Courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D. eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one

copy thereof to the Post Office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several Postmasters of this State. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Boards of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days before said election.

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the Clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the New Constitution." He shall likewise cause to be so printed and delivered to said Clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the New Constitution." The Secretary of State is hereby authorized and required to furnish the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

SEC. 6. The Clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the Inspectors of Election, at each election precinct or polling place in their respective counties, suitable registers, poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the ag-

gregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerks of the respective counties shall, in the City and County of San Francisco, be performed by the Registrar of Voters for said city and county.

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution.

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual place of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but, if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new Constitution; and the proceedings of said Board shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California.

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

SEC. 10. In order that future elections in this State shall conform to the requirements of the Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen, after the adoption of this Constitution, shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the same time and in the manner that State officers are elected.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far

as the same relates to the election of all officers, the commencement of their terms of office, and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, *President.*

Attest: EDWIN F. SMITH, *Secretary.*

# INDEX TO SCHOOL LAW.


| | Sec. | Page |
|---|---|---|
| ACTS, OFFICIAL—County Superintendent must keep record of his own | 1543 | 151 |
| County Superintendent must keep record of County Board | 1543 | 151 |
| ALCOHOLIC DRINKS—Instruction must be given in nature of | 1667 | 170 |
| APPARATUS—Duty of Trustees to purchase | 1617 | 162 |
| Only adopted can be purchased | 1617 | 162 |
| May be purchased with County Fund | 1622 | 166 |
| Itemized bill of, to be presented to Superintendent | 1712 | 175 |
| Orders for, must be approved by Superintendent | 1712 | 175 |
| Duty of County Board of Education to adopt | 1771 | 178 |
| APPEAL—Teachers have right of, in case of dismissal | 1698 | 173 |
| When teacher is entitled to pay during pending of | 1698 | 173 |
| APPLICANT FOR EXAMINATION — Record of standing of, must be kept | 1543 | 151 |
| Record of, must be open to inspection of whom | 1543 | 151 |
| APPORTIONMENT—Of State Fund to counties, made by State Superintendent | 1532 | 147 |
| Abstract of, to whom to be furnished | 1532 | 147 |
| Order for moneys apportioned, in whose favor drawn | 1532 | 147 |
| Order for must be drawn on Controller | 1532 | 147 |
| To districts, must be made quarterly by County Superintendents | 1543 | 148 |
| How made in case of large census roll and small attendance | 1543 | 148 |
| Of moneys remaining to credit of lapsed district | 1543 | 149 |
| How made in case of joint districts | 1583 | 158 |
| When reapportionment must be made | 1621 | 165 |
| When reapportionment must not be made | 1621 | 165 |
| When Trustees are liable for full amount of | 1624 | 166 |
| When must be withheld from district | 1672-3 | 171 |
| Of State Fund, how made to counties | 1858 | 186 |
| Of all moneys, how made to districts | 1858 | 186 |
| When district is not entitled to any State Fund | 1859-60 | 188 |
| District entitled in case of fire, flood, etc | 1859 | 187 |
| When part of State Fund must be withheld | 1875 | 190 |
| When withheld, how apportioned | 1875 | 190 |

| | Sec. | Page |
|---|---|---|
| ASSESSOR—Must not receive fee in connection with school moneys | 1857 | 186 |
| Shall receive fee for collecting poll tax | 1857 | 186 |
| ATTORNEY, DISTRICT—Is the public prosecutor | 4256 | 216 |
| Must give opinion without fee | 4256 | 216 |
| AUDITOR—State Superintendent must report apportionment to | 1532 | 147 |
| Must report to County Superintendent when required | 1543 | 148 |
| Must draw warrant as required by County Superintendent | 1543 | 148 |
| Must draw warrant in favor of City Treasurer, when | 1543 | 149 |
| Must draw warrant for teacher appointed by Superintendent | 1545 | 152 |
| Must draw warrant for certain repairs, etc | 1546 | 152 |
| Must draw warrant for postage, etc | 1548 | 152 |
| Must draw warrant for Institute expenses | 1564 | 154 |
| When must not draw warrant | 1700-1 | 174 |
| Superintendent must report to him County Fund needed | 1817 | 183 |
| Must levy county tax when Supervisors fail to do so | 1819 | 184 |
| Duty of, in regard to district tax | 1837 | 185 |
| Duty of, relative to canceled bonds | 1887 | 193 |
| AYES AND NOES—When shall be taken in County Boards of Education | 1768 | 177 |
| Shall be recorded in minutes of Board | 1768 | 177 |
| BINDING—Certain may be ordered by State Superintendent | 1532 | 147 |
| County Superintendent may have certain done | 1548 | 152 |
| Amount that County Superintendent can expend for | 1548 | 152 |
| Amount must be paid out of County Fund | 1548 | 152 |
| BLANKS—State Superintendent must furnish certain | 1532 | 147 |
| County Superintendent must distribute | 1543 | 151 |
| BOARDS OF EDUCATION, CITY—How elected | 1616 | 161 |
| Powers and duties of | 1616 | 161 |
| To prescribe rules, etc | 1617 | 161 |
| To manage and control school property | 1617 | 162 |
| To purchase certain text-books | 1617 | 162 |
| To purchase school furniture and apparatus | 1617 | 162 |
| To rent, furnish, repair, etc | 1617 | 162 |
| To build school houses, etc | 1617 | 162 |
| To make conveyances | 1617 | 162 |
| To employ teachers, etc | 1617 | 162 |
| To suspend or expel pupils | 1617 | 162 |
| To exclude children under six | 1617 | 162 |
| To admit children of four | 1617 | 162 |

| | Sec. | Page |
|---|---|---|
| BOARDS OF EDUCATION, CITY—CONTINUED. | | |
| To enforce course of study and text-books | 1617 | 162 |
| To appoint district librarians | 1617 | 163 |
| To enforce rules for libraries | 1617 | 163 |
| To exclude certain books, etc. | 1617 | 163 |
| To furnish books for certain parties | 1617 | 163 |
| To keep a register of applicants for admission to the schools | 1617 | 163 |
| To admit children from other districts | 1617 | 163 |
| To appoint School Census Marshal | 1617 | 163 |
| To report to County Superintendent of Schools | 1617 | 163 |
| To report to State Superintendent when required | 1617 | 163 |
| Must maintain all schools equal length of time | 1619 | 165 |
| Must maintain all schools with equal rights | 1619 | 165 |
| Must furnish certain material for pupils | 1620 | 165 |
| Must maintain schools for eight months each year | 1621 | 165 |
| Are liable for failure to appoint Census Marshal | 1624 | 166 |
| Must keep school open for admission of children between six and twenty-one | 1662 | 169 |
| May admit adults | 1662 | 169 |
| May admit non-residents | 1662 | 169 |
| May exclude children of filthy habits | 1662 | 169 |
| May form separate schools for Chinese | 1662 | 169 |
| May form separate schools for Indians | 1662 | 169 |
| May admit kindergarten children | 1662 | 169 |
| Must cause instruction in certain branches to be given | 1665 | 170 |
| May authorize special studies | 1665 | 170 |
| Must cause instruction in morals and manners to be given | 1667 | 170 |
| Must cause attention to be given to physical exercises | 1668 | 170 |
| Must exclude sectarion publications | 1672 | 170 |
| Penalty for failure to enforce Section 1672 | 1672 | 170 |
| Must not continue school in session over six hours | 1673 | 171 |
| Penalty for failure to enforce Section 1673 | 1673 | 171 |
| Must not draw warrants in certain cases | 1700–1 | 174 |
| Must expend Library Fund, how | 1712 | 174 |
| Must cause library books to be marked | 1712 | 175 |
| Must keep library in school house | 1715 | 176 |
| Are responsible for care of library | 1717 | 176 |
| In certain cities may elect Board of Examination | 1787 | 181 |
| May allow salary to members of City Board of Examination | 1794 | 183 |
| Must use State Fund to pay teachers' salaries | 1861 | 188 |
| Penalty for illegally issuing certificate | 1869 | 188 |
| Penalty for acting as agent for any author | 1870 | 188 |
| May administer oaths | 1873 | 188 |

| | Sec. | Page |
|---|---|---|
| BOARDS OF EDUCATION, CITY—CONTINUED. | | |
| Must observe law for adoption of books | 1874 | 189 |
| Members of, must not be interested in certain contracts | 920<br>1876 | 213<br>190 |
| Must not accept bribes | 1879 | 191 |
| Duty of, in reference to bonds | 1889 | 194 |
| District Attorney is legal adviser of | 4256 | 216 |
| BOARDS OF EDUCATION, COUNTY—Superintendent must keep record of acts of | 1543 | 151 |
| Must prescribe the course of study | 1663 | 169 |
| Must provide for examination of pupils | 1663 | 169 |
| May amend or change course of study | 1663 | 170 |
| May authorize additional studies | 1666 | 170 |
| Library books and apparatus must be adopted by | 1712 | 174 |
| Of whom composed | 1768 | 176 |
| Members of, by whom appointed | 1768 | 176 |
| Two members of, must be teachers | 1768 | 176 |
| Members of, when appointed | 1768 | 176 |
| When Superintendent must appoint | 1768 | 177 |
| When members of must qualify | 1768 | 177 |
| When Board shall organize | 1768 | 177 |
| Three members form a quorum of | 1768 | 177 |
| Three votes required for certain measures | 1768 | 177 |
| When ayes and noes must be taken | 1768 | 177 |
| Ayes and noes must be recorded | 1768 | 177 |
| Superintendent is Secretary of | 1769 | 177 |
| Board elect President of | 1769 | 177 |
| Must meet semi-annually | 1770 | 177 |
| Special meetings may be called by Superintendent | 1770 | 177 |
| When Superintendent must call special meeting | 1770 | 177 |
| Notice required for semi-annual meetings | 1770 | 177 |
| Business of special meetings | 1770 | 177 |
| Examinations held only at regular meetings | 1770 | 177 |
| Certificates on credentials may be granted at any meeting | 1770 | 177 |
| Certificates may be renewed at any meeting | 1770 | 177 |
| Compensation of members | 1770 | 178 |
| Compensation of Secretary | 1770 | 178 |
| Compensation, from what fund payable | 1770 | 178 |
| Expenses of, how paid | 1770 | 178 |
| Powers of | 1771 | 178 |
| To adopt rules for their government | 1771 | 178 |
| To adopt rules for examination of teachers | 1771 | 178 |
| To examine applicants for certificates | 1771 | 178 |
| To prescribe standard of proficiency | 1771 | 178 |
| To grant certificates of three grades | 1771 | 178 |
| To grant special certificates | 1771 | 178 |
| To prescribe uniform text-books | 1771 | 178 |

| | Sec. | Page |
|---|---|---|
| BOARDS OF EDUCATION, COUNTY—CONTINUED. | | |
| To prescribe a course of study | 1771 | 178 |
| To revoke certificates | 1771 | 179 |
| To keep record of proceedings | 1771 | 179 |
| To issue diplomas of graduation from the public schools | 1771 | 179 |
| To adopt and use a seal | 1771 | 179 |
| To keep all examination papers one year | 1771 | 179 |
| To whom they can grant certificates | 1772 | 179 |
| Must examine applicant orally also | 1773 | 179 |
| Must ask questions of practical utility | 1773 | 179 |
| Must have examinations public | 1774 | 179 |
| May grant certificates on certain credentials | 1775 | 180 |
| May renew unexpired certificates | 1775 | 181 |
| May grant special certificates on credentials | 1775 | 181 |
| Members must not prepare applicants for examination | 1776 | 181 |
| Penalties for violation of Section 1776 | 1776 | 181 |
| Penalty for illegally issuing certificates | 1869 | 188 |
| Penalty for acting as agent for authors, etc | 1870 | 188 |
| Officers of, may administer oaths | 1873 | 188 |
| How governed in the adoption of books | 1874 | 189 |
| Must not be interested in certain contracts | 920<br>1876 | 213<br>190 |
| Attempt to influence action of is a misdemeanor | 1879 | 191 |
| District Attorney is legal adviser of | 4256 | 216 |
| BOARD OF EDUCATION, STATE—Who compose the | 1517 | 144 |
| Officers of | 1518 | 144 |
| Majority vote of, necessary | 1519 | 144 |
| Meetings of, when held | 1520 | 144 |
| Powers and duties of | 1521 | 144 |
| Traveling expenses of, how paid | 1522 | 146 |
| When guilty of misdemeanor | 1869 | 188 |
| Members of must not act as agents for authors, etc. | 1870 | 188 |
| Officers of may administer oaths | 1873 | 188 |
| Must not be interested in certain contracts | 1876 | 190 |
| BOARDS OF SUPERVISORS. See SUPERVISORS. | | |
| BOARDS OF TRUSTEES. See TRUSTEES. | | |
| BONDS—Relative to, in cities of fifth class | | 226 |
| BONDS, DISTRICT SCHOOL—Trustees may hold election for | 1880 | 191 |
| Notice of election for, how given | 1881 | 191 |
| Notice must contain what | 1882 | 191 |
| How election for must be conducted | 1883 | 192 |
| Returns of election, how and when canvassed | 1884 | 192 |
| Proceedings to be certified to Supervisors | 1884 | 192 |
| When Supervisors must issue | 1884 | 192 |

| | Sec. | Page |
|---|---|---|
| BONDS, DISTRICT SCHOOL—CONTINUED. | | |
| Out of what fund payable | 1884 | 192 |
| Amount of that may be issued | 1884 | 192 |
| Form of | 1885 | 192 |
| Time when payable | 1885 | 192 |
| Maximum rate of interest on | 1886 | 192 |
| Must not be sold for less than par | 1886 | 192 |
| Proceeds of, how disposed of | 1886 | 192 |
| Tax to pay, how levied | 1887 | 193 |
| Auditor to draw warrant to pay | 1887 | 193 |
| Those paid to be filed with Treasurer | 1887 | 193 |
| Method of proceedings when Supervisors fail to levy tax | 1888 | 193 |
| Disposition of unsold | 1889 | 194 |
| BONDS, PUBLISHERS'—Publishers, whose books are adopted, must give | 1874 | 190 |
| BOOKS—For teachers' library, from what fund paid for | 1565 | 155 |
| Amount of fund that can be expended for | 1565 | 155 |
| Catalogue of to be kept by Superintendent | 1565 | 155 |
| For certain children to be furnished by Trustees | 1617 | 162 |
| Only those adopted by County Board may be purchased | 1617 | 162 |
| Use of text-books must be enforced | 1617 | 162 |
| Certain must be excluded from libraries | 1617 | 163 |
| Clerks must keep suitable | 1650 | 168 |
| Teachers must enforce use of text-books | 1696 | 172 |
| Library books must be those adopted by County Board | 1712 | 174 |
| List of must be approved by Superintendent, when | 1712 | 174 |
| Must be properly stamped | 1712 | 175 |
| Text-books must be prescribed by County Board | 1771 | 178 |
| Library, must be adopted by County Board | 1771 | 178 |
| Rules governing the adoption of text-books | 1874 | 189 |
| BOUNDARIES OF SCHOOL DISTRICTS—Superintendent must see that they are described | 1551 | 153 |
| Must keep transcript of | 1551 | 153 |
| Must report conflicting to Supervisors | 1551 | 153 |
| May order description of to be printed | 1551 | 153 |
| May pay for printing description of | 1551 | 153 |
| How and when may be changed | 1577 | 157 |
| Duty of Superintendent relative to changing | 1578 | 158 |
| Duty of Supervisors relative to changing | 1579 | 158 |
| BUILDING FUND—Act to dispose of money remaining in | | 224 |
| CENSUS MARSHAL—When and by whom appointed | 1617 | 163 |
| Notice of appointment of, to be sent to Superintendent | 1617 | 163 |

Sec. Page

CENSUS MARSHAL—CONTINUED.
Appointment of, in cities, to be approved by Superintendent ..... 1617 163
Trustees and Boards of Education liable for failure to appoint ..... 1624 166
Penalty for failure to appoint ..... 1624 166
Duties of ..... 1634 166
Must report to both Superintendents in joint districts ..... 1635 167
Report of must be made under oath ..... 1636 167
Report must show what ..... 1636 167
Has power to administer oaths ..... 1636 167
Superintendent may correct or retake census ..... 1636 167
May pay party appointed to retake ..... 1636 167
Must include whom in his report ..... 1637 167
Must not include certain children ..... 1638 168
Compensation of, how paid ..... 1639 168
Amount of compensation ..... 1639 168
Compensation must not be per capita ..... 1639 168
When order for compensation may be drawn ..... 1639 168
When no compensation can be allowed ..... 1639 168
Penalty for failure to report ..... 1640 168
CENSUS RETURNS—To whom and when State Superintendent must report ..... 1532 147
To whom and when Superintendent must make ... 1551 153
CERTIFICATES OF ELECTION—Must be delivered to persons elected ..... 1602 160
Must be filed with County Superintendent ..... 1602 160
CERTIFICATES, TEACHERS'—Must correspond to grade of school ..... 1543 152
Amount of fee for ..... 1565 155
No fee for temporary ..... 1565 155
Fee for, into what fund payable ..... 1565 155
For what purpose used ..... 1565 155
Of but one county needed in joint districts ..... 1583 158
Teachers must file with Superintendent, when .... 1696 172
When exempted from filing certificates ..... 1503 209; 1696 172
No warrant to be drawn to one not a holder of ... 1701 174
Party must be eighteen years of age to receive ... 1704 174
Vote necessary to grant, revoke or renew ..... 1768 177
Upon examination, can be granted only at semi-annual meetings of County Board ..... 1770 177
Upon credentials, may be granted at any meeting of County Board ..... 1770 177
County Boards may grant three classes of ..... 1771 178
Force of high school ..... 1771 178
Force of grammar ..... 1771 178

| | Sec. | Page |
|---|---|---|
| CERTIFICATES, TEACHERS'—CONTINUED. | | |
| Force of primary | 1771 | 178 |
| Board may grant special | 1771 | 178 |
| Board may revoke for cause | 1771 | 179 |
| Studies necessary for primary | 1772 | 179 |
| Standing of applicants must be indorsed on | 1774 | 179 |
| To whom may be granted without examination | 1775 | 180 |
| To whom high school may be granted without examination | 1775 | 180 |
| The Board may renew certificates | 1775 | 181 |
| In cities teachers may be examined in special studies | 1775 | 181 |
| Renewed, how long valid | 1775 | 181 |
| Applicants must not receive instruction from members of the Board | 1776 | 181 |
| Issued upon what blanks | 1776 | 181 |
| Members of Board not allowed to prepare applicants | 1776 | 181 |
| Penalty for violation of this section | 1776 | 181 |
| City Boards of Examination may recommend for | 1791 | 182 |
| City Boards of Examination may recommend for special | 1791 | 182 |
| Force of, in the several grades | 1791 | 182 |
| City Boards of Examination may recommend revocation of, for cause | 1791 | 182 |
| City Boards of Examination may recommend the granting of, on credentials | 1792 | 183 |
| City Boards of Examination may recommend renewal of | 1792 | 183 |
| Force of special city certificates | 1793 | 183 |
| Must correspond to grade of school | 1793 | 183 |
| Teachers holding can be dismissed only for cause | 1793 | 183 |
| Must be issued only to persons of good moral character | 1871 | 188 |
| Act to continue certificates in force | | 223 |
| CERTIFICATES, TEMPORARY—County Superintendent may issue | 1543 | 150 |
| Valid for what time | 1543 | 150 |
| To whom may be granted | 1543 | 150 |
| Cannot be granted but once in same county | 1543 | 150 |
| No fee required for | 1565 | 155 |
| CLASSIFICATION—Of pupils, to be left at close of term in the State Register | 1696 | 172 |
| CLERK, DISTRICT—Must be elected on first Saturday of July | 1649 | 168 |
| When Superintendent must appoint | 1649 | 168 |
| Duties of | 1650 | 168 |
| Must provide school supplies | 1651 | 169 |

| | Sec. | Page |
|---|---|---|
| CLERK, DISTRICT—CONTINUED. | | |
| Must keep school house in repair | 1651 | 169 |
| Must care for property during vacations | 1651 | 169 |
| CODE, POLITICAL—How construed | 4 | 211 |
| Establishes the law | 4 | 211 |
| COMPULSORY EDUCATION—Acts relating to | | 219 |
| CONTRACTS—Certain cannot extend beyond June 30th | 1617 | 162 |
| Trustees liable for salary of teacher on | 1623 | 166 |
| Trustees liable for all debts on | 1623 | 166 |
| Must not be in excess of moneys for year | 1623 | 166 |
| When district not liable for | 1623 | 166 |
| Certain parties must not be interested in | 920 | 213 |
| CONTROLLER, STATE—Must audit traveling expenses of State Board of Education | 1522 | 146 |
| Must pay traveling expenses out of General Fund. | 1522 | 146 |
| Must be furnished with abstract of apportionment of State Fund | 1532 | 147 |
| Orders for State apportionment to be drawn upon. | 1532 | 147 |
| Number of census children to be reported to | 1532 | 147 |
| Must keep separate account of school fund, etc. | 435 | PC |
| Must report to Superintendent of Public Instruction, when | 435 | PC |
| Must draw warrant in favor of County Treasurers | 435 | PC |
| CONVENTION—Biennial of Superintendents to be called | 1533 | 148 |
| Duty of Superintendents to attend | 1533 | 148 |
| Expenses of Superintendents at, to be allowed | 1533 | 148 |
| Expenses of Superintendents at, out of what fund paid | 1533 | 148 |
| How and by whom called | 1533 | 148 |
| COURSE OF STUDY—Superintendent must report failure to enforce to County Board | 1546 | 152 |
| Trustees must enforce in their schools | 1617 | 162 |
| Must be prescribed by County Board | 1663 | 169 |
| May be changed by County Board | 1663 | 169 |
| Teachers must enforce | 1696 | 170 |
| DEPUTY SUPERINTENDENT OF SCHOOLS—May be appointed by Superintendents | 1549 | 153 |
| Can receive no salary from School Fund | 1549 | 153 |
| When may receive salary in cities | 1550 | 153 |
| DIPLOMAS, EDUCATIONAL—May be granted by State Board of Education | 1521 | 144 |
| Are of two grades | 1521 | 144 |
| Are valid throughout the State for six years | 1521 | 144 |
| Force of each grade | 1521 | 144 |
| To whom may be granted | 1521 | 145 |
| Requirements for | 1521 | 145 |

| | Sec. | Page |
|---|---|---|
| DIPLOMAS, EDUCATIONAL—CONTINUED. | | |
| Holder not required to file them with Superintendent | 1696 | 172 |
| DIPLOMAS, GRADUATION—To be provided for graduates of grammar schools | 1663 | 169 |
| County Boards of Education must issue | 1771 | 179 |
| By whom designed | 1771 | 179 |
| To whom to be issued | 1771 | 179 |
| By whom to be signed | 1771 | 179 |
| DIPLOMAS, LIFE—By whom granted | 1521 | 144 |
| Are of two grades | 1521 | 144 |
| Are valid throughout the State | 1521 | 144 |
| Force of each grade | 1521 | 144 |
| To whom may be granted | 1521 | 145 |
| Requirements for granting | 1521 | 145 |
| Fee for | 1521 | 145 |
| Holders of not required to file them with County Superintendent | 1696 | 172 |
| DISMISSAL—Of teachers, right of appeal in case of | 1698 | 173 |
| Good causes for | 1791 | 182 |
| How accomplished in cities | 1793 | 183 |
| DISOBEDIENCE—On part of pupils, good cause for expulsion | 1685 | 171 |
| DISTRICT MEETINGS—May be called when | 1617 | 164 |
| When must be called | 1617 | 164 |
| How called | 1617 | 164 |
| For what purpose may be called | 1617 | 164 |
| How organized | 1617 | 164 |
| May instruct Trustees, relative to what | 1617 | 164 |
| May be adjourned from time to time | 1617 | 164 |
| Trustees are bound by instructions of | 1617 | 164 |
| Votes to instruct Trustees, how taken | 1617 | 164 |
| DISTRICTS, JOINT—How formed | 1577 | 157 |
| To whom petition for must be made | 1577 | 157 |
| Provision for, to be by concurrent action of Superintendent and Supervisors | 1577 | 157 |
| Duty of Superintendent, relative to | 1578 | 158 |
| Duty of Supervisors, relative to | 1579 | 158 |
| Mode of apportioning funds to | 1583 | 158 |
| What text-books must be used in | 1583 | 158 |
| What rules govern in | 1583 | 158 |
| To whom reports in must be made | 1583 | 158 |
| Teacher is not required to hold certificate in both counties | 1583 | 158 |
| Relative to Trustees in | 1615 | 161 |
| DISTRICTS, NEW—When may be formed | 1577 | 156 |
| How formed | 1577 | 156 |
| When not entitled to apportionment | 1577 | 157 |

| | Sec. | Page |
|---|---|---|
| DISTRICTS, NEW—CONTINUED. | | |
| Duty of Superintendent, relative to | 1578 | 158 |
| Duty of Supervisors, relative to | 1578 | 158 |
| When school must be opened in | 1581 | 158 |
| DISTRICTS, SCHOOL—Superintendent must apportion funds to, quarterly | 1543 | 148 |
| Disposal of money accumulated in | 1543 | 148 |
| When Superintendent may suspend | 1543 | 148 |
| When Supervisors shall declare lapsed | 1543 | 148 |
| Territory of, lapsed, how disposed of | 1543 | 148 |
| Property of, lapsed, how disposed of | 1543 | 149 |
| Debts of, lapsed, how paid | 1543 | 149 |
| Balance of moneys in, lapsed, how disposed of | 1543 | 149 |
| When Superintendent must appoint Trustees in | 1543 | 151 |
| When Superintendent must appoint teacher in | 1545 | 152 |
| Superintendent may require certain duties from Trustees in | 1546 | 152 |
| Number of pupils equal to, in cities | 1548 | 152 |
| Superintendent must keep record of boundaries of | 1551 | 153 |
| Superintendent must have boundaries correctly described | 1551 | 153 |
| Superintendent to report incorrect boundaries to Supervisors | 1551 | 153 |
| Supervisors must correct boundaries of | 1551 | 153 |
| Superintendent may order description of boundaries to be printed | 1551 | 153 |
| Must be named, not numbered | 1575 | 155 |
| Trustees of may sue and be sued in name of | 1575 | 155 |
| When city or town forms but one | 1576 | 155 |
| When outlying may be annexed to city | 1576 | 155 |
| When new may be formed, and how | 1577 | 156 |
| When boundaries of may be changed, and how | 1577 | 157 |
| When contiguous may unite | 1577 | 157 |
| When and how joint may be formed | 1577 | 157 |
| Duties of Superintendent relative to new and joint | 1578 | 158 |
| Duties of Supervisors relative to new and joint | 1579 | 158 |
| When school must be begun in | 1581 | 158 |
| How money is apportioned in joint | 1583 | 158 |
| What text-books must be used in joint | 1583 | 158 |
| To whom reports must be made in joint | 1583 | 158 |
| What rules govern joint | 1583 | 158 |
| Trustees of, when elected | 1593 | 159 |
| Number of Trustees in each | 1593 | 159 |
| Term of office of Trustees in new | 1593 | 159 |
| Term of office in | 1593<br>1613 | 159<br>161 |
| Are under control of Trustees | 1611 | 161 |
| In new, old Trustees residing in hold over | 1615 | 161 |

| | Sec. | Page |
|---|---|---|
| DISTRICTS, SCHOOL—CONTINUED. | | |
| In joint, when Trustees in are elected | 1615 | 161 |
| In joint, terms of old Trustees expire | 1615 | 161 |
| Books for indigent children belong to | 1617 | 163 |
| When aggregate of time is considered when school is maintained in different parts of | 1619 | 165 |
| Outstanding claims against, how paid | 1621 | 165 |
| When not liable for contracts | 1623 | 166 |
| Relative to election of Clerk of | 1649 | 168 |
| Duties of Clerk of | 1650 | 168 |
| Residents of, entitled to use of library | 1716 | 176 |
| Relative to district taxes in | 1830–9 | 184 |
| How funds are apportioned to | 1858 | 186 |
| Provision for deficiency of moneys in | 1858 | 187 |
| When not entitled to apportionment | 1859–60 | 187 |
| When new are entitled to apportionment | 1859 | 187 |
| When do not lose apportionment | 1859 | 187 |
| DOCTRINES, SECTARIAN—Must not be taught in schools | 1672 | 170 |
| Penalty for violation of this law | 1672 | 170 |
| ELECTIONS—For Trustees, when held | 1593 | 159 |
| Notice of, to be given | 1595 | 159 |
| What notice of must contain | 1595 | 159 |
| Officers of, who are and by whom appointed | 1596 | 159 |
| When electors may appoint officers of | 1596 | 159 |
| Length of time polls must be kept open | 1597 | 160 |
| Who are qualified to vote at | 1083 | 214 |
| | 1598 | 160 |
| Exempted from certain provisions of general election law | 1599 | 160 |
| How voting is conducted at | 1599 | 160 |
| Parties offering to vote may be challenged | 1600 | 160 |
| Poll and tally lists must be kept | 1601 | 160 |
| Officers of must give certificates to the elected | 1602 | 160 |
| Tie vote at does not result in choice | 1067 | PC |
| Who are not entitled to vote at | 1084 | 214 |
| ELECTOR—Qualifications of | 1600 | 160 |
| Every, is eligible to office | 58 | 212 |
| Who may be | 1083 | 214 |
| Parties that cannot be | 1084 | 214 |
| ENGLISH LANGUAGE—All schools must be taught in | 1664 | 170 |
| EPIDEMICS—Shall exempt from reapportionment of funds | 1621 | 165 |
| Shall exempt district from loss of apportionment | 1859 | 187 |
| EXAMINATION, CITY BOARD OF—There may be in cities of first, second or third class | 1787 | 181 |
| Of whom composed | 1788 | 181 |

Sec. Page

EXAMINATION, CITY BOARD OF—CONTINUED.
Qualification of members of ..... 1788 181
By whom elected ..... 1788 181
Superintendent of Schools is Chairman of..... 1789 182
Must hold examinations of teachers semi-annually 1790 182
May hold monthly meetings ..... 1790 182
May hold special meetings ..... 1790 182
When must hold special meeting ..... 1790 182
What business can be transacted at special meetings ..... 1790 182
Notice of special meetings must be given ..... 1790 182
All meetings must be public ..... 1790 182
Record of proceedings must be kept ..... 1790 182
Powers and duties of ..... 1791 182
To adopt rules for its own government ..... 1791 182
To adopt rules for examination of teachers .... 1791 182
To examine applicants ..... 1791 182
To prescribe a standard of proficiency ..... 1791 182
To recommend the granting of high, grammar and primary certificates ..... 1791 182
To recommend the granting of special certificates ..... 1791 182
To recommend the revocation of certificates ... 1791 182
Force of certificates..... 1791 182
May recommend certificates to issue without examination ..... 1792 183
Members of may receive salary..... 1794 183
EXAMINATION, COUNTY BOARDS OF. See BOARDS OF EDUCATION, COUNTY.
EXAMINATION OF TEACHERS—Superintendent must enforce the rules for ..... 1543 150
County Board must hold semi-annual meetings for 1770 177
County Board has power to adopt rules for..... 1771 178
Papers of must be kept one year ..... 1771 179
In what studies applicant must pass..... 1772 179
Must be in writing and oral..... 1773 179
Character of questions to be asked ..... 1773 179
Must be public ..... 1773 179
Standing in must be indorsed on certificate..... 1774 179
May be had on special studies ..... 1775 181
When City Boards for must meet..... 1790 182
City Boards may adopt rules for..... 1790 182
City Boards may fix standard for ..... 1790 182
EXPENSES—Of members of State Board of Education, how paid ..... 1522 146
Of Superintendent of Public Instruction, how paid 1532 147
Of Superintendents at Superintendents' convention, how paid ..... 1533 148

Sec. Page

EXPENSES—CONTINUED.
Of Superintendents, for binding, postage, etc..... 1548 152
Of County Superintendents, how paid..... 1552 153
Of City Institutes, how paid ..... 1560 154
Of County Institutes, how paid .....1564-5 154
Of Census Marshals, how paid ..... 1639 168
Of members of County Boards, how paid ..... 1770 178
Of printing for County Boards, how paid..... 1770 178
Of incidentals for County Boards, how paid ..... 1770 178
Of members of City Boards, how paid ..... 1794 183
EXPRESSAGE — Amount allowed Superintendents for ..... 1548 152
Amount that may be used during the first six months of year..... 1548 152
EXPULSION—Of pupils, good cause for .....1685-6 171
FEES—For life diplomas ..... 1521 146
For teachers' certificates ..... 1565 155
For use of library ..... 1716 176
FIRE—Shall exempt district from reapportionment of funds . ..... 1621 165
Shall exempt district from loss of apportionment. 1859 187
FLOOD—Shall exempt district from reapportionment of funds ..... 1621 165
Shall exempt district from loss of apportionment. 1859 187
FUND, COUNTY SCHOOL—Appportioned by Superintendent quarterly ..... 1543 148
Of lapsed district, how disposed of..... 1543 148
When warrant may be drawn upon ..... 1543 149
When Superintendent may draw on for repairs, etc. 1546 152
Superintendent may draw on for binding ..... 1548 152
Superintendent may draw on for postage ..... 1548 152
Superintendent may draw on for incidental expenses ..... 1548 152
Superintendent may draw on for Institute expenses.1564-5 154
How used..... 1621-2 165
May be used to pay compensation of Census Marshal ..... 1639 168
May be used to pay for stamp for library..... 1712 175
Five to ten per cent. of allowed for libraries ..... 1713 175
How raised .....1817-18 183
Must be paid in County Treasury ..... 1820 184
How apportioned ..... 1858 186
FUND, LIBRARY—Money received from insurance on library to be paid into..... 1617 164
Must be expended for what..... 1712 174
Of what it consists in districts ..... 1713 175
Of what it consists in cities ..... 1714 175

| | Sec. | Page |
|---|---|---|
| FUND, STATE—Must be apportioned to counties by Superintendent of Public Instruction | 1532 | 147 |
| Abstract of apportionment, to whom furnished | 1532 | 147 |
| Must be apportioned to districts by County Superintendents | 1543 | 148 |
| Must be used exclusively to pay teachers' salaries | 1622 | 166 |
| How apportioned to counties by Superintendent of Public Instruction | 1858 | 186 |
| How apportioned to counties by Superintendents | 1858 | 186 |
| State Controller must keep separate account of | 435 | PC |
| FUND, TEACHERS' INSTITUTE — From what moneys formed | 1565 | 155 |
| Moneys how drawn out | 1565 | 155 |
| For what purposes used | 1565 | 155 |
| FURNITURE—To be purchased by Trustees | 1617 | 162 |
| GRADING—Of schools, when and by whom made | 1543 | 152 |
| Record to be kept by Superintendent | 1543 | 152 |
| Into what grades must be divided | 1663 | 169 |
| Of pupils, to be left in State Register by teachers | 1696 | 172 |
| GRADUATION—From grammar grades | 1663 | 169 |
| Diplomas to be provided for | 1663 | 169 |
| Graduates of high schools admitted to the University | 1670 | 195 |
| HIGH SCHOOLS—May be established and maintained | 1669 | 195 |
| How established and conducted | 1670 | 195 |
| County, how established and maintained | 1671 | 202 |
| HOLIDAYS—Which days are | 10 | 211 |
| INCORPORATED CITY OR TOWN—Forms separate school district | 1576 | 155 |
| Outside territory may be annexed to | 1576 | 155 |
| Provisions relating to outside territory | 1576 | 155 |
| INSTITUTES—Superintendent must preside at | 1543 | 150 |
| Superintendent must secure competent lecturers for | 1543 | 150 |
| Superintendent must report teachers absent from | 1543 | 150 |
| When must be held and how often | 1560 | 154 |
| Teachers required to attend | 1560 | 154 |
| Cities may have separate, when | 1560 | 154 |
| Must be held how often in cities | 1560 | 154 |
| Length of session in cities | 1560 | 154 |
| Teachers attending city are not required to attend county | 1560 | 154 |
| Expenses of city, limit of, and how paid | 1560 | 154 |
| When Superintendent may hold, and when must hold | 1561 | 154 |
| Length of session of county | 1562 | 154 |
| When pay of teachers shall not be decreased | 1563 | 154 |
| Superintendent must keep account of expenses of | 1564 | 154 |

| | Sec. | Page |
|---|---|---|
| INSTITUTES—CONTINUED. | | |
| Superintendent must draw requisition for expenses of | 1564 | 154 |
| Auditor must draw warrant for expenses of | 1564 | 154 |
| From what fund expenses are payable | 1564 | 154 |
| Limit of expenses for county | 1564 | 154 |
| Amount of fees for certificates paid into fund for | 1565 | 155 |
| What instructors may receive pay at | 1565 | 155 |
| INSTRUCTION—Branches in which, must be given | 1665 | 170 |
| When pupils may be confined to certain | 1665 | 170 |
| In morals and manners must be given | 1667 | 170 |
| In nature of alcholics and narcotics must be given | 1667 | 170 |
| In physical exercises must be given | 1668 | 170 |
| INSURANCE—Trustees may insure school property | 1617 | 162 |
| Money raised by, how disposed of | 1617 | 164 |
| JANITORS—When Superintendent must appoint | 1543 | 151 |
| How appointee shall be paid | 1543 | 151 |
| Trustees must employ | 1617 | 162 |
| JOURNAL, OFFICIAL—By whom designated | 1521 | 146 |
| To whom to be furnished | 1521 | 146 |
| Clerk of Trustees to place in library | 1521 | 146 |
| How paid for | 1521 | 146 |
| Publishers must file affidavit monthly | 1521 | 146 |
| Clerk must place in library each month | 1650 | 168 |
| Clerk must notify publisher of failure to receive | 1650 | 168 |
| KINDERGARTEN CLASSES—Children of four years may be admitted | 1617<br>1662 | 162<br>169 |
| LAPSED DISTRICT—When district lapses | 1543 | 148 |
| Duty of Superintendent relative to | 1543 | 148 |
| Duty of Supervisors relative to | 1543 | 148 |
| Territory of, how disposed of | 1543 | 148 |
| Property of, how disposed of | 1543 | 149 |
| Superintendent must determine indebtedness of | 1543 | 149 |
| Debts of, how paid | 1543 | 149 |
| LAWS, SCHOOL—To be printed by direction of Superintendent of Public Instruction | 1532 | 147 |
| To whom to be supplied | 1532 | 147 |
| To be distributed by Superintendents | 1543 | 151 |
| LIBRARIANS, DISTRICT—Trustees must appoint | 1617 | 163 |
| LIBRARIES, SCHOOL DISTRICT—To be supplied with School Law | 1532 | 147 |
| Trustees must enforce rules for | 1617 | 163 |
| Certain books must be excluded from | 1617 | 163 |
| Books for indigent children to be kept in | 1617 | 163 |
| Orders for books to be approved by Superintendent | 1712 | 174 |
| Are under control of | 1715 | 176 |
| Must be kept in school-room | 1715 | 176 |
| Who entitled to benefit of | 1716 | 176 |

| | Sec. | Page |
|---|---|---|
| LIBRARIES, SCHOOL DISTRICT—CONTINUED. | | |
| Trustees accountable for care of | 1717 | 176 |
| Powers of Trustees relative to | 1717 | 176 |
| Rules of State Board relating to | | 236 |
| MANAGEMENT OF SCHOOLS—State Board to adopt rules for | 1521 | 144 |
| Rules and regulations for | | 230 |
| MEETINGS—Of State Board of Education | 1520 | 144 |
| Of Convention of Superintendents | 1533 | 148 |
| Of Teachers' Institutes | 1560 | 154 |
| Trustees must transact business at regular or special | 1617 | 161 |
| Of electors, Trustees must call, when | 1617 | 164 |
| Trustees must hold to elect clerk | 1649 | 168 |
| Of County Board of Education | 1770 | 177 |
| Of City Board of Examination | 1790 | 182 |
| MISDEMEANOR—Neglect of Census Marshal to report is | 1640 | 168 |
| Improper attempt to influence the action of any member of Board of Education is | 1879 | 191 |
| Insulting or abusing teacher in presence of pupils is | 1867 | 188 |
| Disturbing public school is | 1868 | 188 |
| Illegally issuing certificate is | 1869 | 188 |
| Illegally acting as agent, etc., is | 1870 | 188 |
| How punishable | 19 | 217 |
| What constitutes | 176 | 217 |
| Same | 177 | 217 |
| Same | 308 | 217 |
| Same | 654 | 217 |
| MONEYS, SCHOOL—May be transferred from County to City Treasuries | 1543 | 149 |
| Of State and County apportionments, how used | 1621 | 165 |
| Restriction on those received from State | 1622<br>1861 | 166<br>188 |
| Those of county, how used | 1622 | 166 |
| Amount of county used for libraries | 1713 | 175 |
| Must be paid to County Treasurer | 1857 | 186 |
| State, how apportioned by Superintendent of Public Instruction | 1858 | 186 |
| State and county, how apportioned by Superintendents | 1858 | 186 |
| Provision for deficit in | 1858 | 187 |
| What districts entitled to apportionment | 1859 | 187 |
| What districts not entitled to apportionment | 1859 | 187 |
| Same | 1860 | 188 |
| Mode of disposal of, remaining in Building Fund | | 224 |
| MONTH, SCHOOL—What constitutes | 1697 | 173 |

| | Sec. | Page |
|---|---|---|
| MORALS AND MANNERS—Instruction must be given in | 1667 | 170 |
| NARCOTICS—Instruction must be given in nature of | 1667 | 170 |
| Penalty for furnishing to persons under sixteen years of age | 308 | 217 |
| NORMAL SCHOOLS—Superintendent of Public Instruction to report condition of | 1532 | 146 |
| Constitution of Boards of Trustees of | 354 | 206 |
| Objects of | 1487 | 206 |
| Are under what management | 1488 | 206 |
| Powers and duties of Boards of Trustees of | 1489 | 206 |
| Regular and special meetings of | 1490 | 208 |
| Time and place of meetings of Boards of Trustees of | 1491 | 208 |
| Notice of special meetings must be given | 1491 | 208 |
| Joint meetings of, when and where held | 1492 | 208 |
| Duties of joint Board | 1492 | 208 |
| Who may be admitted to | 1494 | 208 |
| Who may be admitted at large | 1495 | 208 |
| Residents of other States may be admitted | 1496 | 208 |
| Duty of applicants for admission | 1497 | 208 |
| Principals of must report | 1501 | 208 |
| Principals of must attend Institutes | 1502 | 209 |
| Boards may issue diplomas of graduation | 1503 | 209 |
| Diploma of entitles holder to certificate | 1503 | 209 |
| When diploma becomes a permanent certificate | 1503 | 209 |
| When diploma exempts holder from filing certifi'te | 1503 | 209 |
| When diploma entitles to high school certificate | 1503 | 209 |
| Joint Board can appoint Secretary | 1504 | 210 |
| Salary of Secretary | 1504 | 210 |
| Superintendent of Public Instruction must visit | 1505 | 210 |
| Moneys for, how drawn | 1507 | 210 |
| OATHS—Judges of election may administer | 1600 | 160 |
| Of electors, form of | 1600 | 160 |
| Of office, Census Marshal must file | 1634 | 166 |
| Census Marshals may administer | 1636 | 167 |
| Of office, members of County Boards must file | 1768 | 177 |
| Who may administer | 1873 | 188 |
| Of office, when must be filed | 907 | 213 |
| OFFICE—Vacancies in, of Trustees, how filled | 1543 | 151 |
| Term of, of Trustees | 1613 | 161 |
| Vacancies in, of Trustees, how caused | 1614 | 161 |
| Who eligible to | 58 | 212 |
| Duration of term of | 878 | 212 |
| Oath of, form of | 904 | 212 |
| Oath of, when must be taken | 907 | 213 |
| Oath of, before whom taken | 908 | 213 |
| Vacancies in, how caused | 996 | 213 |
| Process for obtaining books of | 1015 | 214 |
| Women entitled to hold educational | | 219 |

| | Sec. | Page |
|---|---|---|
| OFFICER, SCHOOL—Must be supplied with School Law | 1532 | 147 |
| Must be an elector | 58 | 212 |
| Must continue to discharge duty, how long | 879 | 212 |
| Must not be interested in certain contracts | 920 | 213 |
| Must not be interested in certain sales or purchases | 921 | 213 |
| Every public, is entitled to books of office | 1014 | 214 |
| Relating to the removal of | 772 | 217 |
| Act relative to removal of | | 222 |
| ORGANS—May be purchased | 1617 | 162 |
| PENALTIES—For failure of Supt. to visit schools | 1543 | 150 |
| For failure of Supt. to report to Supt. of Pub. Ins. | 1544 | 152 |
| For failure of Trustees to appoint Census Marshal | 1624 | 166 |
| For failure of Census Marshal to report | 1640 | 168 |
| For violation of law relating to sectarianism, etc. | 1672 | 170 |
| For continuing session of school more than six hours, etc | 1673 | 171 |
| For disobedience, etc., of pupils | 1685 | 171 |
| For defacing school property, etc | 1686 | 171 |
| For member of Board of Education preparing parties for examination | 1776 | 181 |
| For applicant who receives special instruction from members of Board of Education | 1776 | 181 |
| For insulting or abusing teachers | 1867<br>654 | 188<br>217 |
| For disturbing public school | 1868 | 188 |
| For issuing certificate unlawfully | 1869 | 188 |
| For illegally acting as agent for author, etc | 1870 | 188 |
| For neglect or refusal to use adopted text-books | 1875 | 190 |
| For being interested in certain contracts | 1876 | 190 |
| For offering bribes, etc | 1879 | 191 |
| For failure of officer to perform duties | 176, 772 | 217 |
| For failure to comply with provisions of compulsory educational Act | 3 | 220 |
| PHYSICAL EXERCISES—Attention must be given to | 1668 | 170 |
| PIANOS—Trustees may purchase | 1617 | 162 |
| PLANS—For school-houses to be approved by Sup'ts | 1543 | 149 |
| POLL LIST—Must be kept | 1601 | 160 |
| Form of | 1174 | 214 |
| POSTAGE—Amount of, allowed to County Sup'ts | 1548 | 152 |
| Limit of, for first six months | 1548 | 152 |
| PRINTING—State Board may have needed done | 1521 | 145 |
| Superintendent of Public Instruction must have certain done | 1532 | 147 |
| County Superintendents may have certain done | 1551 | 153 |
| County Bds. of Education may have certain done | 1770 | 178 |
| PROCEEDINGS—State Board must keep record of its | 1521 | 145 |
| County Sup'ts must keep record of their own | 1543 | 151 |

| | Sec. | Page |
|---|---|---|
| PROCEEDINGS—Continued. | | |
| County Superint'ents must keep record of County Boards of Education | 1543 | 151 |
| Clerk of Board of Trustees must keep record of | 1650 | 168 |
| Of City Boards of Examination, where kept | 1790 | 182 |
| PROFESSION OF TEACHING—When Superintendents may not engage in | 1553 | 154 |
| When Superintendents may follow | 1553 | 154 |
| PROMOTIONS—How, by whom, and when made | 1663 | 169 |
| PUPILS—Number of in cities equal to one district | 1552 | 153 |
| May be suspended or expelled | 1617 | 162 |
| Under six years may be excluded | 1617 | 162 |
| When of four years may be admitted | 1617 | 162 |
| Indigent to be furnished with books | 1617 | 163 |
| Register of those applying for admission must be kept | 1617 | 163 |
| To be admitted in order of registry | 1617<br>1683 | 163<br>171 |
| Parents to be notified of vacancy | 1617 | 163 |
| May be permitted to attend in other districts | 1617 | 163 |
| Parents may appeal from decision of Trustees | 1617 | 163 |
| Must comply with rules and regulations | 1684 | 171 |
| Good cause for suspension or expulsion of | 1685-6 | 171 |
| Beginning, by whom must be taught | 1687 | 171 |
| Rules of State Board for | | 234 |
| QUORUM—Of County Board, what constitutes | 1768 | 177 |
| RECESS—Relative to | 1696 | 172 |
| Same | 2 | 230 |
| RECITATIONS—Programme of to be recorded in State Register | 1696 | 172 |
| REGISTER—Of requisitions to be kept by Super'ts | 1543 | 150 |
| Of requisitions must contain what | 1543 | 150 |
| Of pupils applying for admission to schools, must be kept open to the public | 1617 | 163 |
| State school, must be kept by teachers | 1696 | 172 |
| What must be recorded in | 1696 | 172 |
| REPORTS—Superintendent of Public Instruction must make to Governor | 1532 | 146 |
| What report must contain | 1532 | 146 |
| Superintendent of Public Instruction must make to Controller | 1532 | 147 |
| County Superintendents must make to Superintendent of Public Instruction | 1543 | 151 |
| County Superintendents must preserve all | 1543 | 151 |
| Penalty for failure of County Superintendents to make | 1544 | 152 |
| Of census, when County Superintendents must make | 1551 | 153 |

Sec. Page

REPORTS—CONTINUED.
When Trustees must make to County Superintendent ..... 1617 163
When Census Marshal must make to County Superintendent ..... 1634 166
Penalty for failure of Census Marshal to make... 1640 168
When teachers must make to County Superintendent ..... 1696 173
Teachers to make certain other ..... 1696 173
Trustees must make relative to library ..... 1717 176
REQUISITIONS—To be drawn by County Superintendents ..... 1543 149
Must be drawn in what order ..... 1543 149
Must specify what ..... 1543 149
When may not be drawn ..... 1543 149
For teachers' salaries, must specify what ..... 1543 149
Auditor must draw warrant on receipt of ..... 1543 149
Register of, must be open to public inspection.... 1543 150
Register of, must contain what ..... 1543 150
When may be drawn by Superintendent ..... 1545 152
RESIDENCE—Relative to, and rules for determining 52 212
RULES AND REGULATIONS—State Board has power to adopt ..... 1521 144
Boards of Trustees and Education may adopt .... 1617 161
Pupils must comply with ..... 1684 171
County Boards of Education may adopt for their own government ..... 1771 178
County Boards of Education may adopt for examinations ..... 1771 178
City Boards may adopt ..... 1791 182
Those adopted by the State Board ..... 230
SCHOOL HOUSES—Plans for must be passed upon by County Superintendent ..... 1543 151
Relative to location or change of location of..... 1617 164
Relative to use of ..... 1617 164
District Clerk must keep in repair, when ..... 1651 169
SCHOOL LAWS—To be published by State Superintendent ..... 1532 147
Must contain what ..... 1532 147
Must be supplied to whom ..... 1532 147
SCHOOL SITES—Relative to purchase or sale of... 1617 164
Money raised by sale of, how disposed of ..... 1617 164
SCHOOLS, PUBLIC—State Superintendent must superintend ..... 1532 146
State Superintendent must report condition of, when ..... 1532 146
State Superintendent must visit and inquire into condition of ..... 1532 147

| | Sec. | Page |
|---|---|---|
| SCHOOLS, PUBLIC—CONTINUED. | | |
| When County Superintendent may open and keep. | 1545 | 152 |
| Must be maintained equal length of time | 1619 | 165 |
| Must be maintained with equal rights, etc | 1619 | 165 |
| When school is maintained in different parts of district | 1619 | 165 |
| Must be open for admission for whom | 1662 | 169 |
| Adults may be admitted to | 1662 | 169 |
| Trustees can exclude certain children from | 1662 | 169 |
| Trustees may establish for Chinese, etc | 1662 | 169 |
| When children of four years may be admitted | 1662 | 169 |
| Into what grades may be divided | 1663 | 169 |
| Must be taught in the English language | 1664 | 170 |
| Branches that must be taught in | 1665 | 170 |
| Other studies may be authorized in | 1666 | 170 |
| Morals and manners must be taught in | 1667 | 170 |
| Attention must be given to physical exercises in | 1668 | 170 |
| Sectarian publications must be excluded from | 1672 | 170 |
| Length of session in | 1673 | 171 |
| Pupils must be admitted to in what order | 1683 | 171 |
| Pupils must submit to rules of | 1684 | 171 |
| Good cause for expulsion from | 1685 | 171 |
| Good cause for suspension or expulsion from | 1686 | 171 |
| Beginners in, must be taught by whom | 1687 | 171 |
| Duties of teachers in | 1696 | 172 |
| Daily sessions in | 2 | 230 |
| Recesses in | 2 | 230 |
| Length of session in | 3 | 230 |
| Rules and regulations for, of the State Board | | 230 |
| SEAL—The State Board to adopt and use | 1521 | 144 |
| The State Superintendent to adopt and use | 1532 | 147 |
| County Boards of Education to adopt and use | 1771 | 179 |
| SECTARIAN DOCTRINES. *See* DOCTRINES. | | |
| SESSION—Of school, length of | 1673 | 171 |
| Penalty for violation of rule of | 1673 | 171 |
| STUDIES—Certain, required to be taught | 1665 | 170 |
| In districts having one hundred census children or less | 1665 | 170 |
| Other may be authorized | 1666 | 170 |
| SUPERINTENDENT, CITY—Must attend Convention of Superintendents | 1533 | 148 |
| Actual expenses of, to be paid | 1533 | 148 |
| May issue temporary certificates | 1543 | 150 |
| Must keep in his office reports of State Superin'nt | 1543 | 151 |
| Must report to State Superintendent when required | 1543 | 151 |
| Must report census children | 1551 | 153 |
| May not engage in teaching, when | 1553 | 154 |
| May hold Teachers' Institute, when | 1560 | 154 |

| | Sec. | Page |
|---|---|---|
| SUPERINTENDENT, CITY—CONTINUED. | | |
| Must collect fee for certificates | 1565 | 155 |
| Appointment of Census Marshal to be approved by | 1617 | 163 |
| Is a member of City Board of Examination | 1788 | 181 |
| Is Chairman of City Board of Examination | 1789 | 182 |
| Holds office for four years | 1793 | 183 |
| SUPERINTENDENT, COUNTY—Must furnish journal to Clerk of Trustees | 1521 | 146 |
| Must draw warrant for journal semi-annually | 1521 | 146 |
| Must charge cost of journal to Library Fund | 1521 | 146 |
| Abstract of apportionment of State Fund to be furnished to | 1532 | 147 |
| Must be furnished with necessary books | 1532 | 147 |
| Must be furnished with School Law | 1532 | 147 |
| Must attend Convention of Superintendents | 1532 | 147 |
| Duties of | 1543 | 148 |
| To superintend schools of his county | 1543 | 148 |
| To apportion money to districts quarterly | 1543 | 148 |
| May require report from Auditor | 1543 | 148 |
| Shall apportion accumulated moneys | 1543 | 149 |
| When shall suspend district | 1543 | 149 |
| Must report suspension to Supervisors | 1543 | 149 |
| Shall pay debts of district | 1543 | 149 |
| Must apportion money of lapsed district | 1543 | 149 |
| To draw requisitions on orders of Trustees, etc. | 1543 | 149 |
| Must draw requisitions, in what order | 1543 | 149 |
| When must not draw requisition for bills | 1543 | 149 |
| When must not draw requisition for salaries | 1543 | 149 |
| To keep open to public register of requisitions. | 1543 | 150 |
| To visit every school once a year | 1543 | 150 |
| To preside over Teachers' Institutes | 1543 | 150 |
| To secure lecturers at Institutes | 1543 | 150 |
| To report teachers absent from Institutes | 1543 | 150 |
| To enforce the course of study | 1543 | 150 |
| To enforce the use of text-books | 1543 | 150 |
| To enforce rules for examination of teachers | 1543 | 150 |
| To issue temporary certificates | 1543 | 150 |
| To distribute all laws, reports, etc | 1543 | 151 |
| To keep in his office reports of State Superin'nt | 1543 | 151 |
| To keep a record of his official acts | 1543 | 151 |
| To keep a record of proceedings of County Board | 1543 | 151 |
| To pass upon plans for school-houses | 1543 | 151 |
| To appoint Trustees to fill vacancies | 1543 | 151 |
| To appoint Trustees in new districts | 1543 | 151 |
| To appoint janitors in certain cases | 1543 | 151 |
| To make reports to State Super't when required | 1543 | 151 |
| To preserve reports of school officers, etc | 1543 | 151 |
| To deliver books, papers, etc., to successor | 1543 | 152 |

| | Sec. | Page |
|---|---|---|
| SUPERINTENDENT, COUNTY—CONTINUED. | | |
| To grade schools of his county, when | 1543 | 152 |
| To keep record of grading in his office | 1543 | 152 |
| Penalty for failure to report to State Super'nt | 1544 | 152 |
| Penalty, how enforced | 1544 | 152 |
| Must maintain school for six months, when | 1545 | 152 |
| Must appoint teachers, when | 1545 | 152 |
| May draw warrants to pay expenses in such cases | 1545 | 152 |
| May require Trustees to repair buildings, when | 1546 | 152 |
| May require Trustees to provide outhouses | 1546 | 152 |
| May require Trustees to adorn school premises | 1546 | 152 |
| May order repairs, etc., himself, when | 1546 | 152 |
| May draw requisition to pay for repairs, etc | 1546 | 152 |
| May draw requisition for binding school docum'ts. | 1548 | 152 |
| May draw requisition for postage, etc | 1548 | 152 |
| Amount of allowance that can be used | 1548 | 152 |
| May appoint a deputy | 1549 | 153 |
| Deputy Super'nt, how paid in certain counties | 1550 | 153 |
| Must make annual report to State Superintendent | 1551 | 153 |
| Must keep record of district boundaries | 1551 | 153 |
| Must inquire into school boundaries | 1551 | 153 |
| Must report to Supervisors relative to boundaries | 1551 | 153 |
| May order description of boundaries printed | 1551 | 153 |
| Shall be entitled to traveling expenses | 1552 | 153 |
| When may not engage in teaching | 1553 | 154 |
| When may engage in teaching | 1553 | 154 |
| When must hold Institute | 1560 | 154 |
| When may hold Institute, and when must | 1561 | 154 |
| Must keep account of expenses of Institute | 1564 | 154 |
| Must draw warrant on Auditor for expenses | 1564 | 154 |
| Must collect fee for certificates | 1565 | 155 |
| Must deposit fees for certificates in Co. Treasury | 1565 | 155 |
| Must draw warrant to pay Institute instructor | 1565 | 155 |
| Shall take charge of teachers' library | 1565 | 155 |
| Must transmit petition for new district, or for change of district, to Board of Supervisors | 1578 | 158 |
| Must apportion money how, when district lies in different counties | 1583 | 158 |
| Decision of, final, upon appeal of parents, when | 1617 | 163 |
| Must reapportion balance after eight months' school, when | 1621 | 165 |
| When may order census to be retaken | 1636 | 167 |
| When must withhold county apportionment | 1672 | 170 |
| May determine appeals of teachers | 1698 | 173 |
| Must not draw warrant for teachers, when | 1700 | 174 |
| Must also refuse warrant, when | 1701 | 174 |
| Must procure stamp for school libraries | 1712 | 174 |
| When must not draw requisition on Library Fund. | 1712 | 174 |

| | Sec. | Page |
|---|---|---|
| SUPERINTENDENT, COUNTY—CONTINUED. | | |
| Is a member of County Board of Education | 1768 | 176 |
| When may appoint members of County Board of Education | 1768 | 176 |
| Members of Board appointed by Supt., hold how long | 1768 | 176 |
| Is ex-officio Secretary of Co. Board of Education | 1769 | 177 |
| Must keep in his office record of proceedings of County Board | 1770 | 177 |
| Must furnish Supervisors and Auditor with amount of school fund needed | 1817 | 183 |
| Must estimate minimum fund, how | 1817 | 183 |
| Must apportion school moneys, how | 1858 | 186 |
| Illegally issuing certificate is guilty of misdemeanor | 1869 | 188 |
| When may not act as agent | 1870 | 188 |
| May administer oaths | 1873 | 188 |
| Must apportion money withheld on account of failure to use text-books recommended | 1875 | 190 |
| Must not be interested in contracts, when | 920 | 213 |
| SUPT. OF PUBLIC INSTRUCTION—Duties of | 1532 | 146 |
| SUPERVISORS, BOARD OF—Must allow traveling expenses to Superintendents | 1533 | 148 |
| Must deduct from salary of County Superintendent, when | 1543 | 150 |
| Must deduct from salary of County Superintendent on failure to report | 1544 | 152 |
| Must allow traveling expenses to County Superintendent | 1552 | 153 |
| May annex territory to incorporated towns | 1576 | 155 |
| Must act upon petition for change of districts | 1579 | 158 |
| Must appoint County Board of Education | 1768 | 176 |
| May fill vacancies in County Board of Education at any time | 1768 | 176 |
| Must allow salary to members of County Board of Education | 1770 | 177 |
| County Superintendent to report to, minimum amount of county tax required | 1817 | 183 |
| To levy tax at time of levying other taxes | 1818 | 184 |
| When Auditor must levy | 1819 | 184 |
| Must levy district tax, when | 1837 | 185 |
| SUPPLIES—Certain, must be furnished | 1620 | 165 |
| Charges for, how paid | 1620 | 165 |
| District Clerk must provide | 1651 | 169 |
| SUSPENSION OF PUPILS—Good cause for | 1686 | 171 |
| Teachers may resort to | 1696 | 172 |
| Teachers must report cases of | 1696 | 172 |
| Teachers may appeal to Superintendent in cases of | 1696 | 172 |

| | Sec. | Page |
|---|---|---|
| TALLY LIST—Must be kept | 1601 | 160 |
| Form of | 1174 | 214 |
| Cannot be set aside for want of form | 1175 | 216 |
| TAX COLLECTOR—Must not charge or receive any fee in connection with school moneys | 1857 | 186 |
| May receive fee for collecting poll tax | 1857 | 186 |
| TAX, COUNTY SCHOOL—How estimated | 1817 | 183 |
| How levied | 1818 | 184 |
| When Auditor must levy | 1819 | 184 |
| Proceeds of, to be paid into County Treasury | 1820 | 184 |
| TAX, DISTRICT SCHOOL—Trustees may call election to determine whether tax shall be raised | 1830 | 184 |
| Objects of raising tax | 1830 | 184 |
| When tax must be returned to parties paying | 1830 | 184 |
| Election, how called | 1831 | 185 |
| What notices must specify | 1832 | 185 |
| Trustees to appoint Judges of Election | 1833 | 185 |
| No particular form of ballot required | 1833 | 185 |
| What ballots must contain | 1834 | 185 |
| If majority vote "Tax—Yes," the officers of election certify to Trustees | 1835 | 185 |
| Trustees report to Supervisors | 1836 | 185 |
| Supervisors must levy the tax | 1837 | 185 |
| Rate of tax, how ascertained | 1837 | 185 |
| How computed and collected | 1837 | 185 |
| To whom paid | 1837 | 185 |
| Maximum rate of, not to exceed 70 cents | 1839 | 186 |
| Act to provide for | | 226 |
| TEACHERS—To be supplied with blank forms, etc. | 1532 | 147 |
| Must hold what grade of certificate | 1543 | 152 |
| When County Superintendent may appoint | 1545 | 152 |
| Notice of employment of, to be sent to County Superintendent | 1617 | 162 |
| Trustees liable, in name of district, for salary of | 1623 | 166 |
| Pupils must submit to authority of | 1684 | 171 |
| Beginners to be taught by experienced | 1687 | 171 |
| General duties of | 1696 | 172 |
| To file certificate with County Superintendent | 1696 | 172 |
| To notify County Superintendent of opening and closing of school | 1696 | 172 |
| When notice of closing to be given | 1696 | 172 |
| To enforce course of study and text-books | 1696 | 172 |
| To hold pupils to accountability, etc | 1696 | 172 |
| To suspend pupils and report suspension | 1696 | 172 |
| May appeal to County Superintendent, when | 1696 | 172 |
| To keep school register | 1696 | 172 |
| To make annual report to County Superintendent | 1696 | 173 |
| To make report at close of term | 1696 | 173 |

| | Sec. | Page |
|---|---|---|
| TEACHERS—CONTINUED. | | |
| To include what in annual report | 1696 | 173 |
| To other reports required | 1696 | 173 |
| May appeal to Superintendent in case of dismissal | 1698 | 173 |
| May appeal to State Superintendent when salary is withheld | 1699 | 173 |
| When warrant for salary shall be drawn | 1700–1 | 174 |
| Must teach morality, patriotism, etc | 1702 | 174 |
| Under eighteen years of age not eligible to teach | 1704 | 174 |
| Act to prevent discrimination against female | | 223 |
| Instructions of State Board to | | 234 |
| When to be present at school-room | 1 | 230 |
| Must observe time for opening and closing school | 1 | 230 |
| TEXT-BOOKS—County Superintendent must enforce use of | 1543 | 150 |
| Of State series to be purchased | 1617 | 162 |
| Trustees and Boards of Education must enforce use of | 1617 | 162 |
| Teachers must enforce use of | 1696 | 172 |
| Vote necessary to adopt | 1768 | 176 |
| Duty of County Board of Education to prescribe and enforce use of a uniform series of | 1771 | 178 |
| Rules governing the adoption of | 1874 | 189 |
| When adopted must continue four years | 1874 | 189 |
| No change can be made except in May or June | 1874 | 189 |
| Sixty days' notice of change must be given | 1874 | 189 |
| Notice, how given | 1874 | 189 |
| Copy of newspaper containing notice must be sent to State Superintendent | 1874 | 189 |
| Notice must contain what | 1874 | 189 |
| Notice to be published how often | 1874 | 189 |
| Bids, how disposed of | 1874 | 189 |
| Bids must be accompanied by samples | 1874 | 190 |
| If bids not satisfactory, books formerly adopted continue | 1874 | 190 |
| Publisher whose bid is accepted must give bond | 1874 | 190 |
| Publisher whose books are in use may bid | 1874 | 190 |
| TOBACCO—Relative to sale of, to persons under sixteen | 308 | 217 |
| TRAVELING EXPENSES—Of members of State Board, how paid | 1522 | 146 |
| Of State Superintendent, allowance for | 1532 | 147 |
| Of State Superintendent, how paid | 1532 | 147 |
| County Superintendent shall receive | 1552 | 153 |
| Amount that can be allowed for | 1552 | 153 |
| TREASURER, COUNTY—To be furnished abstract of State apportionment | 1532 | 147 |
| Must not charge or receive any fee in connection with school moneys | 1857 | 186 |

| | Sec. | Page |
|---|---|---|
| TRUSTEES—County Superintendent must appoint to fill vacancies | 1543 | 151 |
| County Superintendent must appoint, for new districts | 1543 | 151 |
| How long appointees hold office | 1543 | 151 |
| May be required by Superintendent to repair school buildings | 1546 | 152 |
| May be required by Superintendent to abate nuisances | 1546 | 152 |
| May be required by Superintendent to provide outhouses | 1546 | 152 |
| May be required to adorn grounds | 1546 | 152 |
| May sue and be sued in name of district | 1575 | 155 |
| Of city or town, have control of property annexed | 1576 | 155 |
| Of joint districts, report how | 1583 | 158 |
| Election for, when held, and where | 1593 | 159 |
| Number of, for a district | 1593 | 159 |
| Women eligible to office of | 1593 | 159 |
| For what time elected in new districts | 1593 | 159 |
| How many elected each year | 1593 | 159 |
| Must post notices of election, when | 1595 | 159 |
| When Trustees fail to post notices, three electors may do so | 1595 | 159 |
| Must appoint Inspectors, Judges, and Clerks | 1596 | 159 |
| Who may vote at election for | 1598 | 160 |
| Voting for, must be by ballot | 1599 | 160 |
| Party attempting to vote may be challenged | 1600 | 160 |
| Poll and tally lists must be kept | 1601 | 160 |
| Officers must canvass vote for | 1602 | 160 |
| Have control of the district | 1611 | 161 |
| Term of office of | 1613 | 161 |
| Vacancy in office of, how created | 1614 | 161 |
| Resignation of, must be in writing | 1614 | 161 |
| Resignation of, must be sent to Superintendent | 1614 | 161 |
| Of old districts hold over in new, when | 1615 | 161 |
| General powers and duties of | 1617 | 161 |
| To adopt and enforce rules | 1617 | 161 |
| To transact business at meetings | 1617 | 161 |
| To manage and control school property | 1617 | 162 |
| To purchase text-books, etc. | 1617 | 162 |
| To rent, repair, insure, etc. | 1617 | 162 |
| To build, purchase, and sell, when | 1617 | 162 |
| To make conveyances, etc. | 1617 | 162 |
| To employ teachers, janitors, etc. | 1617 | 162 |
| To suspend or expel pupils | 1617 | 162 |
| To exclude certain children | 1617 | 162 |
| To adopt kindergarten work | 1617 | 162 |
| To enforce course of study | 1617 | 162 |

Sec. Page

TRUSTEES—CONTINUED.
To enforce use of text-books..... 1617 162
To appoint District Librarians..... 1617 163
To exclude sectarian publications, etc..... 1617 163
To furnish books to certain pupils..... 1617 163
To keep register of applicants..... 1617 163
To arrange for attendance of non-residents..... 1617 163
To appoint Census Marshal..... 1617 163
To report to County Superintendent, when..... 1617 163
To report to State Superintendent, when..... 1617 163
To visit schools, etc..... 1617 163
To call district meetings..... 1617 164
Must maintain schools equal length of time..... 1619 165
Must maintain schools with equal privileges..... 1619 165
Must furnish pupils with certain supplies..... 1620 165
Must use school moneys, how..... 1621 165
Must use school moneys, how..... 1622 166
Liable, in name of district, for teachers' salaries.. 1623 166
Liable, in name of district, for debts contracted.. 1623 166
Liable for failure to appoint Census Marshal..... 1624 166
Must elect District Clerk, when..... 1649 168
Must expend Library Fund, for what..... 1712 174
Must not draw warrant for bills not itemized..... 1712 175
Must cause all books to be stamped..... 1712 175
Have control of school libraries..... 1715 176
Shall be held accountable for condition of library. 1717 176
May call election to vote upon tax..... 1830 184
Must appoint Judges of Election..... 1833 185
Must certify result, if favorable, to Supervisors... 1836 185
VACANCIES—In office of Trustee, how filled..... 1543 151
In County Board of Education, how filled..... 1768 176
If Supervisors neglect to fill, Superin'nt appoints. 1768 176
In office, how occasioned..... 996 213
VACCINATION—Act to encourage and provide for
VENTILATION—Attention must be given to..... 1668 170
VISIT SCHOOLS—Duty of State Superintendent to visit asylums..... 1532 147
Duty of State Superintendent to..... 1532 147
Duty of County Superintendent, once a year..... 1543 150
Penalty for failure to..... 1543 150
VOTE—In case of tie, no choice..... 1067 PC
Who is entitled to..... 1083 214
Who is not entitled to..... 1084 214
WARRANTS—In favor of teachers, when shall not be drawn..... 1700 174
On Library Fund, what necessary for..... 1712 174
WORDS—How construed..... 15, 17 211

# SCHOOL LAW OF CALIFORNIA.

EXTRACTS FROM POLITICAL CODE, PART III, TITLE III, CHAPTER III.

## ARTICLE I.

### STATE BOARD OF EDUCATION.

1517. The State Board of Education consists of the Governor, the Superintendent of Public Instruction, and the Principals of the State Normal Schools.

1518. The Governor is the President and the Superintendent of Public Instruction the Secretary of the Board.

1519. A concurrence of a majority of all the members is necessary to the validity of any act of the Board.

1520. The Board shall meet at the call of the Secretary, and not less than twice in each year.

1521. The powers and duties of the Board are as follows:

*First*—To adopt rules and regulations, not inconsistent with the laws of this State, for its own government, and for the government of the public schools and district school libraries.

*Second*—To grant Educational Diplomas of two grades, valid throughout the State for the period of six years, as follows:

1. High School; authorizing the holder to teach in any primary or grammar school, and in any high school in which said holder is not required to teach languages other than the English.

2. Grammar School; authorizing the holder to teach in any primary or grammar school.

*Third*—To grant Life Diplomas of two grades, valid throughout the State, as follows:

1. High School; authorizing the holder to teach in any primary or grammar school, and in any high school in which said holder is not required to teach languages other than the English.

2. Grammar School; authorizing the holder to teach in any primary or grammar school.

*Fourth*—Except as provided in section one thousand five hundred and three of this Code, diplomas may be issued only to such persons as have held for one year, and who still hold, a valid city, city and county, or county certificate, corresponding in grade to the grade of the diploma applied for, and who shall furnish satisfactory evidence of having had a successful experience in teaching of at least five years, when applying for an Educational Diploma, and of at least ten years when applying for a Life Diploma. Every application must be accompanied to the State Board of Education by a certified copy of a resolution adopted by at least a four-fifths vote of all the members composing a City or County Board of Education, recommending that the diploma be granted, and also by an affidavit of the applicant specifically setting forth the places in which and the dates between which said applicant has taught, and that said applicant has taught a part of each year for five or ten calendar years, respectively. The five or ten years need not be consecutive years; but the aggregate experience must be at least thirty-five months for an Educational and seventy months for a Life Diploma; and in either case the applicant must have had twenty-one months' experience in the public schools of California. The application must also be accompanied by a fee of two dollars, for the purpose of defraying the expense of issuing the diploma.*

*Fifth*—To revoke or suspend for immoral or unprofessional conduct, or for evident unfitness for teaching, Life Diplomas or Educational Diplomas heretofore issued, or that may hereafter be issued; and to adopt such rules for the revocation of diplomas as they may deem expedient or necessary.

*Sixth*—To have done by the State Printer, or other officer having the management of the State printing, any printing required by it; *provided*, that all orders for printing shall first be approved by the State Board of Examiners.

*Seventh*—To adopt and use, in authentication of its acts, an official seal.

*Eighth*—To keep a record of its proceedings.

* No fee is required for Educational Diplomas.—J. W. A.

*Ninth*—To designate some educational monthly journal as the official organ of the Department of Public Instructron. One copy of the journal so designated shall be furnished by the County Superintendent to the Clerk of each Board of District Trustees, to be placed by him in the district library. The County Superintendent of Schools shall draw his warrant semi-annually in favor of the publishers of such school journal, for a sum not exceeding one dollar and fifty cents ($1.50) per district, for each school year, and charge the same to the Library Fund of the district; *provided*, that the publishers of such journal shall be required to file an affidavit with the Superintendent of Public Instruction, on or before the tenth day of each month, stating that they had mailed one copy of said journal to the Clerk of each school district in the State. It is hereby made the duty of the Clerk of each Board of District Trustees, and the Secretary of each Board of Education, to place each number of such journal in the school library of his district, on or before the end of the month in which such number was issued.

1522. The actual traveling expenses of the members, incurred in attending the meetings of the Board, must be audited by the Controller, and paid out of the General Fund in the State Treasury.

## ARTICLE II.

### SUPERINTENDENT OF PUBLIC INSTRUCTION.

1532. It is the duty of the Superintendent of Public Instruction:

*First*—To superintend the schools of this State.

*Second*—To report to the Governor, on or before the fifteenth day of September, preceding each regular session of the Legislature, a statement of the condition of the State Normal schools and other educational institutions supported by the State, and of the public schools.

*Third*—To accompany his report with tabular statements, showing the number of school children in the State; the number attending public schools, and the average attendance; the number attending private schools, and the number not attending schools; the amount of State School Fund apportioned, and the sources from which derived;

the amount raised by county and district taxes, or from other sources of revenue, for school purposes; and the amount expended for salaries of teachers, for building school houses, for district school libraries, and for incidental expenses.

*Fourth*—To apportion the State School Fund; and to furnish an abstract of such apportionment to the State Controller, the State Board of Examiners, and to the County Auditors, County Treasurers, and County Superintendents of the several counties of the State.

*Fifth*—To draw his order on the Controller in favor of each County Treasurer for school moneys apportioned to the county.

*Sixth*—To prepare, have printed, and furnish all officers charged with the administration of the laws relating to the public schools, and to teachers, such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by County Boards of Education.

*Seventh*—To have the laws relating to the public schools printed in pamphlet form, and to supply school officers and school libraries with one copy each.

*Eighth*—To visit the several orphan asylums to which State appropriations are made, and examine into the course of instruction therein.

*Ninth*—To visit the schools in the different counties, and inquire into their condition; and the actual traveling expenses thus incurred (*provided*, that they do not exceed fifteen hundred dollars per annum), shall be allowed, audited, and paid out of the General Fund in the same manner as other claims are audited and paid.

*Tenth*—To authenticate with his official seal all drafts or orders drawn by him, and all papers and writings issued from his office.

*Eleventh*—To have bound, at the State Bindery, all valuable school reports, journals, and documents in his office, or hereafter received by him.

*Twelfth*—To report to the Controller, on or before the tenth day of July of each year, the total number of children in the State between the ages of five and seventeen years, as shown by the latest reports of the County Superintendents on file in his office.

*Thirteenth*—To deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

1533. He shall have power to call, biennially, a convention of the County and City Superintendents, to assemble at such time and place as he shall deem most convenient, for the discussion of questions pertaining to the supervision and administration of the public schools, the laws relating thereto, and such other subjects affecting the welfare and interest of the public schools as shall properly be brought before it. It is hereby made the duty of all County and City Superintendents to attend and take part in the proceedings of such convention when it is called. The actual expenses of the County Superintendents attending the convention shall be allowed by the Board of Supervisors, and paid out of the same fund as the salary of the County Superintendents is paid; the actual expenses of the City Superintendents attending the convention shall be allowed and paid out of the same fund as the salary of such City Superintendent is paid.

## ARTICLE III.

### SCHOOL SUPERINTENDENTS.

1543. It is the duty of the County Superintendent of each county:

*First*—To superintend the schools of his county.

*Second*—1. To apportion the school moneys to each school district, as provided in section one thousand eight hundred and fifty-eight of this Code, at least four times a year. For this purpose he may require of the County Auditor a report of the amount of all school moneys on hand to the credit of the several school funds of the county not already apportioned; and it is hereby made the duty of the Auditor to furnish such report when so required; and whenever an excess of money has accumulated to the credit of a school district by reason of a large census roll and a small attendance, beyond a reasonable amount necessary to maintain a school for eight months in such district for the year, the Superintendent of Schools

shall place said excess of money to the credit of the unapportioned school funds of the county, and shall apportion the same as other school funds are apportioned.

2. If in any school district there has been an average daily attendance of only five, or a number of pupils less than five, during the whole school year, the Superintendent shall at once suspend the district, and report the fact to the Board of Supervisors at their next meeting. The Board of Supervisors, upon receiving such report from the Superintendent, shall declare the district lapsed, and shall attach the territory thereof to one or more of the adjoining school districts in such manner as may be by them deemed most convenient for the residents of said lapsed district.

3. When any district has been declared lapsed, the Board of Supervisors shall sell or otherwise dispose of the property thereto belonging, and shall place the proceeds of such sale to the credit of the district. Thereupon the Superintendent shall determine all outstanding indebtedness of said lapsed district, and shall draw his requisition upon the County Auditor in payment thereof. Any balance of moneys remaining to the credit of said lapsed district shall be transferred by the Superintendent to the unapportioned school funds of the county, and shall be apportioned as other school funds are apportioned. Should there not be sufficient funds to the credit of the lapsed district to liquidate all of the outstanding indebtedness thereof, the Superintendent shall draw his requisition upon the County Auditor pro rata for the several claims.

*Third*—1. On the order of the Board of School Trustees, to draw his requisition upon the County Auditor for all necessary expenses against the School Fund of any district, or of any city or town which has not a Board of Education. The requisitions must be drawn in the order in which the orders therefor are filed in his office. Each requisition must specify the purpose for which it is drawn; but no requisition shall be drawn unless the money is in the fund to pay it, and no requisition shall be drawn upon the order of the Board of School Trustees against the funds of any district, except for teachers' salaries, unless such order is accompanied by an itemized bill showing the separate items and the price of each, in payment for which the order is drawn; nor shall any requisition for teachers' salaries be drawn unless the order shall state the monthly salary of

the teacher, and name the months for which such salary is due. Upon the receipt of such requisition the Auditor shall draw his warrant upon the County Treasurer in favor of the parties for the amount stated in such requisition.

2. On the order of the Board of Education of any city having a Board of Education, the County Superintendent shall draw his requisition upon the County Auditor in favor of the City Treasurer of said city for all State and county moneys, and for all other moneys apportioned by the said Superintendent to said city. Upon the presentation of said requisition the County Auditor shall draw his warrant upon the County Treasurer in favor of the Treasurer of said city for the amount stated in said requisition. It shall be the duty of the County Treasurer to pay the amount stated in the warrant of the County Auditor to the Treasurer of said city; and it shall be the duty of the Treasurer of said city to receive and safely keep all moneys so received, and to pay the same out upon the order of the Board of Education of said city, which order must be issued by said Board of Education, as provided in division (1) one of this subdivision of section one thousand five hundred and forty-three of the Political Code.

*Fourth*—To keep, open to the inspection of the public, a register of requisitions, showing the fund upon which the requisitions have been drawn, the number thereof, in whose favor, and for what purpose they were drawn, and also a receipt from the person to whom the requisition was delivered.

*Fifth*—To visit and examine each school in his county at least once in each year. For every school not so visited the Board of Supervisors must, on proof thereof, deduct ten dollars from his salary.

*Sixth*—To preside over Teachers' Institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching, and to report to the County Board of Education the names of all teachers in the county who fail to attend regularly the sessions of the Institute; to enforce the course of study, the use of text-books, and the rules and regulations for the examination of teachers prescribed by the proper authority.

*Seventh*—He shall have power to issue, if he deem it proper to do so, temporary certificates, valid until the next semi-annual meeting of the County Board of Education,

to persons holding certificates of like grade granted in other counties, cities, or cities and counties, or upon any certificates or diplomas upon which County Boards are empowered to grant certificates without examination, as specified in section seventeen hundred and seventy-five; *provided*, that no person shall be entitled to receive such temporary certificate more than once in the same county.

*Eighth*—To distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of school officers.

*Ninth*—To keep in his office the reports of the Superintendent of Public Instruction.

*Tenth*—To keep a record of his official acts, and of all the proceedings of the County Board of Education, including a record of the standing, in each study, of all applicants examined, which shall be open to the inspection of any applicant or his authorized agent.

*Eleventh*—Except in incorporated cities having Boards of Education, to pass upon and approve or reject all plans for school houses. To enable him to do so, all Boards of Trustees, before adopting any plans for school buildings, must submit the same to the County Superintendent for his approval.

*Twelfth*—To appoint Trustees to fill all vacancies, to hold until the first day of July succeeding such appointment; when new districts are organized, to appoint Trustees for the same, who shall hold office until the first day of July next succeeding their appointment. In case of the failure of the Trustees to employ a janitor, as provided in section sixteen hundred and seventeen, subdivision seventh, of this Code, he shall appoint a janitor, who shall be paid out of the School Fund of the district. Should the Board of School Trustees of any district fail or refuse to issue an order for the compensation for such service, the Superintendent is hereby authorized to issue, without such order, his requisition upon the County School Fund apportioned to such district.

*Thirteenth*—To make reports, when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

*Fourteenth*—To preserve carefully all reports of school



LIBRARY

officers and teachers, and, at the close of his official term, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which will be filed in the office of the County Clerk.

*Fifteenth*—The County Superintendent shall, unless otherwise provided by law, in the month of July of each year, grade each school, and a record thereof shall be made in a book to be kept by the County Superintendent in his office for this purpose. And no teacher holding a certificate below the grade of said school shall be employed to teach the same.

1544. If he fails to make a full and correct report, as required under the provisions of subdivision thirteen of section fifteen hundred and forty-three, at the time fixed by the Superintendent of Public Instruction, he forfeits one hundred dollars of his salary; and the Board of Supervisors, upon receiving from the Superintendent of Public Instruction notice of such failure, must deduct the amount forfeited from his salary.

1545. He must, when there is sufficient money in the fund of any school district to maintain a free school therein for six months, if the Trustees fail to have such school kept, appoint a teacher, and open and keep such school, and may draw his requisition upon the County Auditor, who shall draw his warrant upon the fund of such district for the expense incurred.

1546. He may, in his discretion, require the Trustees of any district to repair the school buildings or property, or to abate any nuisance in or about the premises, if such repairs or abatement can be done for a sum not exceeding fifty dollars, and there is a sufficient amount of money in the treasury to the credit of the district. He may also, in all cases, require the Trustees to provide suitable outhouses, and, where practicable, to adorn the ground with fruit and ornamental trees and shrubbery; and, if the Trustees neglect to make such provision, he may cause it to be done, and pay for it on his requisition upon the County Auditor, who shall draw his warrant, payable out of any money to the credit of the district.

1548. He may draw his requisition upon the County Auditor, who shall draw his warrant on the unapportioned County School Fund, in his own favor, for the binding of school documents, not to exceed twenty dollars a year;

for postage and expressage for his office, not to exceed two dollars for each district of his county, and for such other incidental expenses as may be authorized by law; *provided*, that not more than one half of such allowance shall be used during the first six months of any school year, except by unanimous consent of the Board of Supervisors; *and provided further*, that in incorporated cities, each school containing three hundred pupils shall be considered equal to one school district.

1549. Each County Superintendent may appoint a deputy; but no salary, payable out of the School Fund, must be allowed such deputy.

1550. The Deputy School Superintendent of any city, or city and county, having over thirty thousand inhabitants, may receive such compensation as the Board of Education thereof prescribes, payable in the same manner and out of the same fund as the Superintendent of Schools thereof is paid.

1551. Every School Superintendent in this State must, on or before the first day of July in each year, report to the Superintendent of Public Instruction, and to the Board of Supervisors of his county, the number of children therein between the ages of five and seventeen years, as appears by the latest returns of the Census Marshals on file in his office. It shall be the duty of every County Superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the Board of Supervisors, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting, or incorrectly described, he shall report such fact to the Board of Supervisors, and the Board of Supervisors shall immediately take such steps as are necessary to change, harmonize, and clearly define them. The County Superintendent, if he deem it necessary for the guidance of School Census Marshals, may order the description of the district boundaries printed in pamphlet form, and pay for the same out of the County School Fund.

1552. Each County Superintendent shall receive his actual and necessary traveling expenses, said expenses to be allowed by the Board of Supervisors, and to be paid out

of the County General Fund; *provided*, that this amount shall not exceed ten dollars per district per annum.

1553. No School Superintendent, who receives an annual salary of fifteen hundred dollars or more, must follow the profession of teaching, or any other vocation that can conflict with his duties as Superintendent; but those receiving less than fifteen hundred dollars per annum may teach in the public schools of this State.

## ARTICLE IV.

### TEACHERS' INSTITUTES.

1560. The Superintendent of every county in which there are twenty or more school districts, and of every city and county in the State, must hold at least one Teachers' Institute in each year; and every teacher employed in a public school in the county must attend such Institute, and participate in its proceedings; *provided*, that cities employing seventy or more teachers may have a separate Institute, to meet at least once a year, the sessions to be of not less than three nor more than five days; *and provided further*, that teachers attending such City Institute shall not be required to attend the County Institute. The expenses of such City Institutes, not exceeding two hundred dollars annually, shall be paid from the special school funds of said city.

1561. In any county in which there are less than twenty school districts, the County Superintendent may, in his discretion, hold an Institute. When directed by the County Board of Education, he shall hold an Institute not oftener than once each year, at such time and place as the Board may direct.

1562. Each session of the Institute must continue not less than three nor more than five days.

1563. When the Institute is held during the time that teachers are employed in teaching, their pay must not be diminished by reason of their attendance.

1564. The County Superintendent must keep an accurate account of the actual expenses of said Institute, with vouchers for the same, and draw his requisition upon the County Auditor, who shall draw his warrant on the unapportioned County School Fund to pay said amount;

*provided*, that such amount must not exceed two hundred dollars for any one year.

1565. Except for a temporary certificate, and except as provided in subdivision second of section one thousand five hundred and three of the Political Code,* every applicant for a teacher's certificate, or for the renewal of a certificate, upon presenting his application, shall pay to the County Superintendent a fee of two dollars, to be by him immediately deposited with the County Treasurer, to the credit of a fund to be known as the Teachers' Institute and Library Fund. All funds so credited shall be drawn out only upon the requisition of the County Superintendent of Schools upon the County Auditor, who shall draw his warrant in payment of the services of instructors in the County Teachers' Institute; *provided*, they be not teachers in the public schools of the county in which such Institute is held; and for the purchase of books for a library for the use of the teachers of the county. At least fifty per cent. of the Teachers' Institute and Library Fund shall be expended for books. The County Superintendent shall take charge of the teachers' library, prepare a catalogue of its contents, and keep a correct record of books taken therefrom and returned thereto.

## ARTICLE V.

### SCHOOL DISTRICTS.

1575. Every school district must be designated by the name and style of "——— District (using the name of the district), of ——— County" (using the name of the county in which such district is situated); and in that name the Trustees may sue and be sued, and hold and convey property for the use and benefit of such district. A number must not be used as a part of a designation of any school district.

1576. Every city or incorporated town, unless subdivided by the legislative authority thereof, shall constitute a separate school district, which shall be governed by the

* In Section 1503, as originally drawn, there was a provision that the holders of Normal School Diplomas should not be required to pay a fee for the certificates. This provision was afterwards stricken out, and applicants are therefore required to pay the fee.—J. W. A.

Board of Education or Board of School Trustees of such city or incorporated town; *provided*, that whenever a city or town shall be incorporated the Board of Supervisors of the county may annex thereto, for school purposes only, the remainder, or any part of the remainder, of the district or districts from which such city or incorporated town was organized, whenever a majority of the heads of families residing therein, as shown by the last preceding school census, shall petition for such annexation; *and provided further*, that the Board of Supervisors may include more territory than the remainder of the district or districts from which the city or incorporated town was organized, whenever a petition for such purpose is presented to them, signed by a majority of the heads of families, as shown by the last preceding school census, residing in such additional territory. When said remainder or part thereof, or said additional outside territory, has been annexed to said city or incorporated town, it shall be deemed a part of said city or incorporated town for the purpose of holding the general municipal election, and shall form one or more election precincts, as may be determined by the legislative authority of said city or incorporated town, the qualified electors of which shall vote only for the Board of Education, or the Board of School Trustees; and such outside territory shall be deemed to be a part of said city or incorporated town for all matters connected with the School Department thereof, for the annual levying and collecting of the property tax for the School Funds of said city or incorporated town, and for all purposes specified in sections one thousand eight hundred and eighty to one thousand eight hundred and eighty-eight of this Code, inclusive.

1577. *First*—No new school district shall be formed at any other time than between the first day of December and the fifth day of April, nor at that time unless the parents or guardians of at least fifteen census children, residents of such proposed new district, and residing at a greater distance than two miles by a traveled road from the public school-house in the district in which said parents or guardians reside, present a petition to the Superintendent of Schools, setting forth the boundaries of the new district asked for; *provided*, that the provision requiring that the petitioners shall reside a distance of more than

two miles by a traveled road from the said public school-house may be dispensed with when the petition shall be signed by the parents or guardians of fifty or more census children resident of a district containing more than three hundred census children.

*Second*—The boundaries of a school district, except as provided in section one thousand five hundred and fifty-one of the Political Code, shall be changed only between the first day of January and the fifth day of April in any year, and then only when at least ten heads of families residing in the districts affected by the proposed change of boundaries shall present to the Superintendent of Schools a petition setting forth the changes of boundaries desired, and the reasons for the same; *provided,* that two or more districts lying contiguous may, at any time, be united to constitute but one district, whenever a petition signed by a majority of the heads of families residing in each of said districts shall be presented to the Superintendent of Schools.

*Third*—Joint districts (that is, districts lying partly in one county and partly in another) may be formed at any time between the first day of December and the fifth day of April in any year, whenever a petition signed by the parents or guardians of at least fifteen census children, residents of such proposed joint district and residing at a greater distance than two miles by a traveled road from any public school house, shall be presented to the Superintendent of each county affected by the proposed formation of the joint district; *and provided further,* that the provision requiring that the petitioners shall reside a distance of more than two miles by a traveled road from any public school house may be dispensed with when the petition shall be signed by the parents or guardians of fifty or more census children residents of districts any one of which contains more than three hundred census children. All the provisions relative to the formation of joint districts shall be by concurrent action of the Superintendent and the Board of Supervisors of each county affected.

*Fourth*—The children residing in any newly formed district, in any district whose boundaries have been changed, or in any joint district, shall be permitted to attend the school in the district or districts from which the newly

formed district was constituted until the first day of July next succeeding the formation or change.*

*Fifth*—Whenever a district shall be united with a municipality or with another district, all funds belonging to said district shall be transferred, by requisition of the Superintendent of the county upon the County Auditor, to the municipality or district with which said district is united.

1578. After giving due notice to all parties interested, by sending notice by registered mail to each of the Trustees of any school district that may be affected by the proposed change, or by causing notices to be posted in three public places in each district affected, one of which shall be at the door of the school house of said districts, for at least one week, the County Superintendent must transmit the petition to the Board of Supervisors, with his approval or disapproval. If he approves the petition he may note such changes in the boundaries as he may think desirable.

1579. The Board of Supervisors must, at their first meeting after the receipt of the petition, act upon the same. If the Board establishes the district, they may do so in accordance with the original prayer of the petition, or with such modifications as they may choose to make.

1581. After the making of an order by the Board of Supervisors, creating a new district, the school must be opened therein not later than the second Monday in September in the year in which the order is made; otherwise, said order shall be null and void.

1583. Whenever a district lies partly in one county and partly in another, the County Superintendent must apportion to such district such proportion of the school money to which such district is entitled, as the number of school census children residing in that portion of the district situated in his county bears to the whole number of school census children in the whole district. The text-books to be used, and the rules governing the school in such district, shall be those adopted by the Board of Education of the county in which the school house in said joint district is located. The Trustees and teachers of joint districts shall make to the Superintendents of each county in which the

* A new district is not entitled to any apportionment of the funds belonging to the school year in which the new district was formed, the children of the new district being permitted to attend in the old district until the first day of July.—J. W. A.

district is located, the reports which other Trustees and teachers are required to make, and also the number of pupils attending the school from each county. The teacher in such joint district shall not be required to hold a certificate in both counties.

## ARTICLE VI.

### ELECTIONS FOR SCHOOL TRUSTEES.

1593. An election for School Trustees must be held in each school district on the first Friday of June of each year, at the district school house, if there is one, and if there is none, at the place to be designated by the Board of Trustees.

1. The number of School Trustees for any school district, except where City Boards are otherwise authorized by law, shall be three. No person shall be deemed ineligible to the office of Trustee on account of sex.

2. In new school districts the School Trustees shall be elected on the first Friday of June subsequent to the formation of the district, to hold office for one, two, and three years, respectively, from the first day of July next succeeding their election.

3. When a vacancy occurs from any of the causes specified in section nine hundred and ninety-six of this Code, the Superintendent shall appoint a suitable person to fill such vacancy, until the first day of July next succeeding the appointment, and a party shall be elected at the next June election, to hold office for the remainder of the term.

4. Except as provided in subdivisions two and three of this section, one Trustee shall be elected annually, to hold office for three years, or until his successor shall be elected and qualified.

1595. Not less than ten days before the election required under section fifteen hundred and ninety-three, the Trustees must post notices in three public places in the district, which notices must specify the time and place of election, and the hours during which the polls will be kept open; if within five days of the election the Trustees have failed to post the notices required under this section, then any three electors of the district may give notice of such election.

1596. Trustees must appoint one Inspector and two Judges of Election; if none are so appointed, or if those

appointed are not present at the time for opening the polls, the electors present may appoint them, and they shall conduct the election.

1597. In districts in which the number of children between five and seventeen years of age exceeds five hundred, the polls must be opened at eight o'clock A. M., and kept open until sundown. In other districts the polls must not be opened before nine o'clock A. M., nor kept open less than four hours.

1598. Every qualified elector of the county, who has resided in the district for thirty days next preceding the election, may vote thereat.

1599. The voting must be by ballot (without reference to the general election law in regard to nominations, form of ballot, or manner of voting), which shall be handed by the elector voting to the Inspector, who shall then, in his presence, deposit the same in the ballot-box, and the Judges shall enter the elector's name on the poll list.

1600. Any person offering to vote may be challenged by any elector of the district, and the Judges of Election must thereupon administer to the person challenged an oath, in substance as follows: "You do swear that you are a citizen of the United States, that you are twenty-one years of age, that you have resided in this State one year, in this county ninety days, and in this school district thirty days next preceding this election, and that your name is on the Great Register of this county, and that you have not before voted this day." If he takes the oath prescribed in this section, his vote must be received, otherwise his vote must be rejected.

1601. A poll and tally list must be kept and returned to the Board of Trustees.

1602. The officers of election must publicly canvass the votes immediately after closing the polls, and make, sign, and deliver certificates of election to the person or persons elected, which must, with the oath of office of the person so elected attached, be forwarded to the County Superintendent of Schools, and filed in his office.

## ARTICLE VII.

### BOARDS OF TRUSTEES OF SCHOOL DISTRICTS, AND CITY BOARDS OF EDUCATION.

1611. Except when otherwise authorized by law, every school district shall be under the control of a Board of School Trustees, consisting of three members.

1613. The term of office of School Trustees is three years, from the first day of July next succeeding their election.

1614. *First*—Vacancies in the office of School Trustee are caused by the happening of any of the events specified in section nine hundred and ninety-six of the Political Code, or by failure to elect, as provided in section one thousand five hundred and ninety-three of this Code.

*Second*—When a School Trustee resigns, his resignation must be sent in writing to the County Superintendent of Schools.

1615. *First*—When a new district is organized, such of the Trustees of the old district as reside within the boundaries of the new shall be Trustees of the new district until the expiration of the time for which they were elected.

*Second*—When joint districts are formed, three Trustees shall be elected at the June election next succeeding the formation thereof, to hold office for one, two, and three years, respectively, from the first day of July next succeeding their election. The terms of the Trustees in the districts uniting to form the joint district shall expire on the formation of said joint district, and the Superintendent of the county in which lies the district having the greater number of census children shall appoint two Trustees, and the Superintendent of the county in which the other district lies shall appoint one Trustee, to hold office until the first day of July next succeeding the formation of the joint district.

1616. Boards of Education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided.

1617. The powers and duties of Trustees of school districts, and of Boards of Education in cities, are as follows:

*First*—To prescribe and enforce rules, not inconsistent with law or those prescribed by the State Board of Education, for their own government and government of

schools, and to transact their business at regular or special meetings called for such purpose, notice of which shall be given each member.

*Second*—To manage and control the school property within their districts, and to pay all moneys collected by them, from any source whatever, for school purposes, into the County Treasury, to be placed to the credit of the special fund of their districts.

*Third*—To purchase text-books of the State series for the use of pupils whose parents are unable to purchase them; school furniture, including organs and pianos, and apparatus and such other things as may be necessary for the use of schools; *provided*, that, except in incorporated cities having Boards of Education, they purchase such books and apparatus only as have been adopted by the County Board of Education.

*Fourth*—To rent, furnish, repair, and insure the school property of their respective districts.

*Fifth*—When directed by a vote of their district, to build school houses or to purchase or sell school lots.

*Sixth*—To make, in the name of the district, conveyances on all property belonging to the district, and sold by them.

*Seventh*—To employ the teachers, and excepting in incorporated cities having Boards of Education, immediately notify the Superintendent of Schools, in writing, of such employment, naming the grade of certificate held by the teachers employed; also, to employ janitors and other employés of the schools; to fix and order paid their compensation, unless the same be otherwise prescribed by law; *provided*, that no Board of Trustees shall enter into any contract with such employés to extend beyond the thirtieth day of June next ensuing.

*Eighth*—To suspend and expel pupils for misconduct.

*Ninth*—To exclude from schools children under six years of age; *provided*, that in cities and towns in which the kindergarten has been adopted, or may hereafter be adopted, as a part of the public primary schools, children may be admitted to such kindergarten classes at the age of four years.

*Tenth*—To enforce in schools the course of study and the use of text-books prescribed and adopted by the proper authority.

*Eleventh*—To appoint District Librarians, and enforce the rules prescribed for the government of district libraries.

*Twelfth*—To exclude from school and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character.

*Thirteenth*—To furnish books for the children of parents unable to purchase them; the books so furnished to belong to the school district, and to be kept in the district school library when not in use.

*Fourteenth*—To keep a register, open to the inspection of the public, of all children applying for admission and entitled to be admitted into the public schools, and to notify the parents or guardians of such children when vacancies occur, and receive such children into the schools in the order in which they are registered.

*Fifteenth*—To permit children from other districts to attend the schools of their district only upon the consent of the Trustees of the district in which such children reside; *provided*, that should the Trustees of the district in which children, whose parents or guardians desire them to attend in other districts, reside, refuse to grant their consent, the parents or guardians of such children may appeal to the County Superintendent, and his decision shall be final.

*Sixteenth*—On or before the first day of April in each year to appoint a School Census Marshal, and notify the Superintendent of Schools thereof; *provided*, that in any city, or city and county, the appointment of all School Census Marshals shall be subject to the approval of the City Superintendent of Schools.

*Seventeenth*—To make an annual report, on or before the first day of July, to the Superintendent of Schools, in the manner and form, and on the blanks prescribed by the Superintendent of Public Instruction.

*Eighteenth*—To make a report, whenever required, directly to the Superintendent of Public Instruction, of the text-books used in their schools.

*Nineteenth*—To visit every school in their district at least once in each term, and examine carefully into its management, condition, and wants. This clause to apply to each and every member of the Board of Trustees.

*Twentieth*—Boards of Trustees may, and upon a petition signed by a majority of the heads of families resident in the district, as shown by the last preceding school census, must call meetings of the qualified electors of the district for determining or changing the location of the school-house, or for consultation in regard to any litigation in which the district may be engaged, or be likely to become engaged, or in regard to any affairs of the district. Such meetings shall be called by posting three notices in public places, one of which shall be in a conspicuous place on the school-house, for not less than ten days previous to the time for which the meeting shall be called, which notices shall specify the purposes for which said meeting shall be called; and no other business shall be transacted at such meetings. District meetings shall be organized by choosing a Chairman from the electors present, and the District Clerk shall be Clerk of the meeting, and shall enter the minutes thereof on the records of the district. A meeting so called shall be competent to instruct the Board of Trustees:

1. In regard to the location or change of location of the school-house, or the use of the same for other than school purposes; *provided*, that in no case shall the school-house be used for purposes which necessitate the removal of any school desks, or other school furniture.

2. In regard to the sale and purchase of school sites.

3. In regard to prosecuting, settling, or compromising any litigation in which the district may be engaged, or be likely to become engaged, and may vote money, not exceeding one hundred dollars in any one year, for any of these purposes, in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire; *provided*, that the proceeds of the insurance of the library and apparatus shall be paid into the Library Fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting. District meetings may be adjourned from time to time, as found necessary, and all votes instructing the Board of Trustees shall be taken by ballot, or by ayes and noes vote, as the meeting may determine. The Board of Trustees shall, in all cases, be bound by the instructions of the district meeting in regard to the subjects mentioned in this section; *provided*,

that the vote in favor of changing the location of the school-house shall be two-thirds of all the electors voting at said meeting upon the proposition to change the location.

1619. *First*—The Boards of School Trustees and City Boards of Education must maintain all the schools established by them for an equal length of time during the year, and, as far as practicable, with equal rights and privileges.

*Second*—When in any district it is necessary for the convenience of the residents of said district that the school therein should be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school has been maintained in the different portions of the district shall be considered in estimating the time for which a school has been maintained in the district during the school year.

1620. Writing and drawing paper, pens, inks, blackboards, blackboard rubbers, crayons, and lead and slate pencils, and other necessary supplies for the use of the schools, must be furnished under the direction of the City Boards of Education and Boards of School Trustees, and charges therefor must be audited and paid as other claims against the County School Fund of their districts are audited and paid.

1621. The Boards of School Trustees and City Boards of Education must use the school moneys received from the State and county apportionments exclusively for the support of schools for that school year, until at least an eight months' school has been maintained. If at the end of any year during which an eight months' school has been maintained there is an unexpended balance, it may be used for the payment of claims against the district outstanding, or it may be used for the year succeeding. Any balance remaining on hand at the end of any school year in which school has not been maintained eight months, shall be reapportioned by the Superintendent of Schools as other moneys are apportioned; *provided*, that if a district has been prevented from maintaining a school for eight months in any year in consequence of fire, flood, prevailing epidemic, or other cause, which may, upon investigation by the Superintendent of the county, be de-

termined to be a good and sufficient one, said balance shall not be reapportioned.

1622. Boards of Trustees may use the county school moneys for any of the purposes authorized by this chapter; but all State school moneys must be applied exclusively to the payment of teachers of primary and grammar schools.

1623. Boards of Trustees are liable as such, in the name of the district, for any judgment against the district for salary due any teacher on contract, and for all debts contracted under the provisions of this chapter, and they must pay such judgment or liabilities out of the school moneys to the credit of such district; *provided*, that the contracts mentioned in this section are not in excess of the school moneys accruing to the district for the school year for which the contracts are made, otherwise the district shall not be held liable.

1624. If any Board of Trustees, or City Board of Education, fail to appoint a Census Marshal at the proper time, and through such failure the district is omitted in the apportionment of school moneys, the Trustees or members of the City Board of Education are jointly and severally personally liable to the district for the full amount which the district would have received but for such failure; and the amount may be recovered in an action brought by any citizen of such district or city in the name of and for the benefit of the district or city.

## ARTICLE VIII.

### DISTRICT CENSUS MARSHALS.

1634. It is the duty of the Census Marshal:

*First*—To take annually, between the fifteenth and thirtieth days of April, inclusive, a census of all children, including the children of Indian parents who pay taxes, or who are not living in the tribal relation, under seventeen years of age, who were residents of his district on said fifteenth day of April.

*Second*—To report the results of his labors to the Superintendent of Schools (or to the Board of Education, in cities), on or before the tenth day of May in each year.

*Third*—He shall visit each habitation, home, residence,

domicile, or place of abode in his district, and by actual observation and interrogation, enumerate the census children of the same.

*Fourth*—Before entering upon the discharge of his duties as such, the Census Marshal must qualify and file his oath of office in the office of the Superintendent of Schools.

1635. Whenever a district is formed lying partly in two adjoining counties, the Census Marshal must report to each County Superintendent the number of children in each county:

1636. His report must be made under oath, upon blanks furnished by the Superintendent of Public Instruction, and must show:

*First*—The number, age, sex, color, and nationality of the children listed.

*Second*—The names of the parents or guardians of said children, arranged alphabetically, except in cities of the first class. In all cities the number and street of residence must be given.

*Third*—Such other facts as the Superintendent of Public Instruction may designate.

*Fourth*—The Census Marshal shall have power to administer oaths to parents and guardians.

*Fifth*—If at any time the Superintendent of Schools has reason to believe that a correct census of the district has not been taken, he must have it corrected, and, if necessary for the purpose, he may appoint a Census Marshal, and have the census of the district retaken. Should the Board of Education or Board of School Trustees of said city or district refuse to issue an order for the compensation of said Marshal for his services, the Superintendent is hereby authorized to issue his requisition therefor against the County Fund of such city or district without such order.

1637. He must include in his report all children who are absent attending institutions of learning, and whose parents or guardians are residents of the district; he must also include as census children the children of Indian parents who pay taxes, and of Indian parents who are not living in the tribal relation; he must also include all orphan children absent from the district in orphan asylums, whose guardians reside in the district, and every half orphan absent in asylums, whose surviving parent or

guardian resides in the district; he must also include all native born Chinese children.

1638. He must not include in his report children who are attending institutions of learning, or such benevolent institutions as deaf and dumb, blind, and orphan asylums in his district, whose parents or guardians do not reside therein.

1639. The compensation of Census Marshal must be audited and paid as other claims upon the School Fund of the district are audited and paid; *provided*, such compensation shall not exceed six dollars per day for time actually and necessarily employed; *and provided further*, that in no case shall the compensation be computed at a per capita sum; nor shall any order for such compensation be drawn by the Trustees of any district, or by any Board of Education, until they shall have been notified by the Superintendent that the report of the Census Marshal has been approved by him. In case the report should not be approved by the Superintendent, the Census Marshal shall not be entitled to receive any compensation.

1640. If the Census Marshal neglect or refuse to make his report at the time or in the manner herein required, and to perform any other duty devolved upon him, he must be deemed guilty of a misdemeanor, and on conviction be punished by fine or imprisonment.

## ARTICLE IX.

### CLERKS OF SCHOOL DISTRICTS.

1649. Boards of Trustees must, annually, on the first Saturday of July, meet and elect one of their number Clerk of the district; and if a Clerk be not elected at this date, the Superintendent shall appoint.

1650. It is the duty of the Clerk:

*First*—To call meetings of the Board at the request of two members, and to act as Clerk of the Board, and keep a record of its proceedings, and an accurate account of the receipts and expenditures of school moneys.

*Second*—To keep his records and accounts open to the inspection of the electors of the district, in suitable books provided by the Board of School Trustees for that purpose.

*Third*—To place the monthly journal designated as the

official organ of the Department of Public Instruction in the school district library each month; and if he fails to receive it regularly, to immediately notify the publishers of such fact.

*Fourth*—To perform such other duties as may be prescribed by the Board.

1651. The Clerk of each district must, under the direction of the Board of Trustees, provide all school supplies authorized by this chapter, keep the school-house in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and school property during the vacations of the school.

## ARTICLE X.

### SCHOOLS.

1662. Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district, and the Board of School Trustees, or City Board of Education, have power to admit adults and children not residing in the district, whenever good reasons exist therefor. Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Mongolian or Chinese descent. When such separate schools are established, Indian, Chinese, or Mongolian children must not be admitted into any other school; *provided*, that in cities and towns in which the kindergarten has been adopted, or may hereafter be adopted, as part of the public primary schools, children may be admitted to such kindergarten classes at the age of four years.

1663. 1. All schools, unless otherwise provided by law, must be divided into primary and grammar grades. The County Board of Education must, except in incorporated cities having Boards of Education, on or before the first day of July, prescribe the course of study in each grade for the ensuing year.

2. Except in incorporated cities having Boards of Education, the County Board of Education shall require that promotions, upon written examinations or otherwise, in

each of said courses, shall take place at stated periods, at least once in each school year. It shall also provide for conferring diplomas at the end of the course of study in the grammar grade for those who satisfactorily pass the required examination.

3. The County Board of Education may amend and change, subject to section sixteen hundred and sixty-five, either of the above courses of study, whenever necessary.

1664. All schools must be taught in the English language.

1665. Instruction must be given in the following branches, in the several grades in which each may be required, viz.: Reading, writing, orthography, arithmetic, geography, grammar, history of the United States, elements of physiology and hygiene, with special instruction as to the nature of alcoholic drinks and narcotics and their effects upon the human system; vocal music, elementary bookkeeping, industrial drawing, and civil government; *provided*, that instruction in physiology and hygiene, elementary bookkeeping and civil government, may be oral, no text-books in these subjects being required to be purchased by the pupils; *provided further*, that the Board of Education of any county may, in districts having less than one hundred census children, confine the pupils to the studies of reading, orthography, arithmetic, grammar, geography, history, penmanship, and elementary bookkeeping, until they have a practical knowledge of these subjects.

1666. Other studies may be authorized by the Board of Education of any county, city, or city and county; but no such studies shall be pursued to the neglect or exclusion of the studies in the preceding section specified.

1667. Instruction must be given, in all grades of school and in all classes during the entire school course, in manners and morals, and upon the nature of alcoholic drinks and narcotics and their effects upon the human system.

1668. Attention must be given to such physical exercises for the pupils as may be conducive to health and vigor of body, as well as mind, and to the ventilation and temperature of school-rooms.

1672. No publication of a sectarian, partisan, or denominational character must be used or distributed in any school, or be made a part of any school library; nor must

any sectarian or denominational doctrine be taught therein. Any school district, town, or city, the officers of which knowingly allow any schools to be taught in violation of these provisions, forfeits all right to any State or county apportionment of school moneys; and upon satisfactory evidence of such violation, the Superintendent of Public Instruction and School Superintendent must withhold both State and county apportionments.

1673. No school must be continued in session more than six hours a day; and no pupil under eight years of age must be kept in school more than four hours per day. Any violation of the provisions of this section must be treated in the same manner as a violation of the provisions of the preceding section.

## ARTICLE XI.

### PUPILS.

1683. Pupils must be admitted into the schools in the order in which they apply to be registered.

1684. All pupils must comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of said schools.

1685. Continued willful disobedience or open defiance of the authority of the teacher constitutes good cause for expulsion from school, and habitual profanity and vulgarity good cause for suspension from school.

1686. Any pupil who cuts, defaces, or otherwise injures any school-house, fences, or outbuildings thereof, is liable to suspension or expulsion; and on the complaint of the teacher or Trustees, the parents or guardians of such pupils shall be liable for all damages.

1687. In all schools having more than two teachers, beginners shall be taught by teachers who have had at least two years' experience, or by Normal School graduates; and in cities such teachers shall rank, in point of salary, with those of the assistant teachers in the highest grade in the Grammar Schools; and in no case shall Boards of Education or Boards of School Trustees draw orders for the salary of any teacher in violation of this provision, nor shall any Superintendent draw any requisition for the salary of any teacher in violation thereof.

## ARTICLE XII.

### TEACHERS.

1696. Every teacher in the public schools must:

*First*—Before assuming charge of a school, file his or her certificate with the Superintendent of Schools; *provided*, that when any teacher so employed is the holder of a California State Normal School diploma, accompanied by the certificate of the State Board of Education, as provided in subdivision third, of section one thousand five hundred and three, of the Political Code, an Educational or a Life Diploma of California, upon presentation thereof to the Superintendent he shall record the name of said holder in a book provided for that purpose in his office, and the holder of said diploma shall thereupon be absolved from the provisions of this subdivision.

*Second*—Before taking charge of a school, and one week before closing a term of school, notify the County Superintendent of such fact, naming the day of opening or closing. Boards of Education and Boards of School Trustees must in every case give to the teacher a notice of at least two weeks of their intention to close the term of school under their charge. No Superintendent shall draw any requisition for the last month's salary of any teacher until said teacher has filed with him the notice required by this subdivision.

*Third*—Enforce the course of study, the use of the legally authorized text-books, and the rules and regulations prescribed for schools.

*Fourth*—Hold pupils to a strict account for their conduct on the way to or from school, on the playgrounds, or during recess; suspend, for good cause, any pupil from the school, and report such suspension to the Board of School Trustees or City Board of Education for review. If such action is not sustained by them, the teacher may appeal to the County Superintendent, whose decision shall be final.

*Fifth*—To keep a State School Register, in which shall be left at the close of the term, a report showing programme of recitations, classification, and grading of all pupils who have attended school at any time during the school year. The Superintendent shall in no case draw a requisition in favor of the teacher until the teacher has

filed with him a certificate from the Clerk of the Board of School Trustees to the effect that the provisions of this subdivision have been complied with.

*Sixth*—Make an annual report to the County Superintendent at the time and in the manner and on the blanks prescribed by the Superintendent of Public Instruction. Any teacher who shall end any school term before the close of the school year, shall make a report to the County Superintendent immediately after the close of such term; and any teacher who may be teaching any school at the end of the school year, shall, in his or her annual report, include all statistics for the entire school year, notwithstanding any previous report for a part of the year. The Superintendent of Schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term until the report required by this subdivision has been filed and by him approved.

*Seventh*—Make such other reports as may be required by the Superintendent of Public Instruction, County Superintendent, Board of School Trustees, or City Board of Education.

1697. A school month is construed and taken to be twenty school days, or four weeks of five school days each.

1698. In case of the dismissal of any teacher before the expiration of any oral or written contract entered into between such teacher and the Board of Trustees, for alleged unfitness or incompetence, or violation of rules, the teacher may appeal to the School Superintendent; and if the Superintendent decides that the removal was made without good cause, the teacher so removed must be reinstated, and shall be entitled to compensation for the time lost during the pending of the appeal.

1699. *First*—Any teacher whose salary is withheld may appeal to the Superintendent of Public Instruction, who shall thereupon require the Superintendent of Schools to investigate the matter and present the facts thereof to him. The judgment of the Superintendent of Public Instruction shall be final; and upon receiving it the Superintendent of Schools, if the judgment is in favor of the teacher, shall, in case the Trustees refuse to issue an order for said withheld salary, issue his requisition in favor of said teacher.

*Second*—Should any teacher employed by a Board of School Trustees for a specified time, leave the school before the expiration of such time, without the consent of the Trustees, in writing, said teacher shall be deemed guilty of unprofessional conduct, and the Board of Education of the county are authorized, upon receiving notice of such fact, to suspend the certificate of such teacher for the period of one year. Should said teacher be the holder of an Educational or a Life Diploma, the Superintendent of Schools shall report the delinquency of the teacher to the State Board of Education, who are thereupon authorized to suspend said diploma for the period of one year.

1700. No warrant must be drawn in favor of any teacher unless the officer whose duty it is to draw such warrant is satisfied that the teacher has faithfully performed all the duties prescribed in section one thousand six hundred and ninety-six.

1701. No requisition for a warrant shall be drawn in favor of any teacher, unless such teacher is the holder of a proper certificate, in force for the full time for which the requisition is drawn, nor unless he was employed by the Board of Trustees, or City Board of Education, or by the Superintendent of Schools, as provided in section one thousand five hundred and forty-five.

1702. It shall be the duty of all teachers to endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, and patriotism; to teach them to avoid idleness, profanity, and falsehood; and to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties, and dignity of American citizenship.

1704. No person is eligible to teach in any public school in this State, or to receive a certificate to teach, who has not attained the age of eighteen years.

## ARTICLE XIII.

### DISTRICT LIBRARIES.

1712. *First*—The Board of School Trustees and the City Board of Education in any city must expend the Library Fund, together with such moneys as may be added thereto by donation, in the purchase of school apparatus and books

for a school library, including books for supplementary work, and no warrant shall be drawn by the Superintendent of Schools upon the order of any Board of Trustees against the Library Fund of any district unless such order is accompanied by an itemized bill, showing the books and apparatus, and the price of each, in payment of which the order is drawn, and unless such books and apparatus have been adopted by the County, or City, or City and County Board of Education; all orders of the Trustees and of Boards of Education for books or apparatus must in every case be submitted to the Superintendent of Schools of the county, or city, or city and county, respectively, for his approval, before said books or apparatus shall be purchased.

*Second*—The Trustees of each district shall cause each book now in their District School Library, or that may hereafter be placed in said library, to be stamped on the fly leaf, on the title page, and on each one hundredth page of the book, with the words "Department of Public Instruction, State of California, ——— County, ——— District Library," and the County Superintendent is hereby authorized and instructed to procure such stamp for each district in his county, and to pay for the same out of the County School Fund of such district.

1713. Except in cities not divided into school districts, the Library Fund shall consist of not less than five nor more than ten per cent. of the County School Fund annually apportioned to the district; *provided*, that should ten per cent. exceed fifty dollars, fifty dollars only shall be apportioned to the district; *and provided further*, that the School Trustees of each district in the county shall, in the month of July in each year, notify the Superintendent of the county as to what amount they desire to be apportioned for their respective districts for the year.

1714. In cities not divided into school districts, the Library Fund shall consist of a sum not to exceed fifty dollars for every one thousand children or fraction thereof of five hundred or more, between the ages of five and seventeen years, annually taken from the City or County School Fund apportioned to the city. The Superintendent shall apportion the Library Fund in cities not divided into districts among the several schools in proportion to the average number of children belonging to each school.

1715. Libraries are under the control of the Board of Trustees or City Board of Education, and must be kept, when practicable, in the school-houses.

1716. The library is free to all pupils of a suitable age belonging to the school; and any resident of the district may become entitled to its privileges by the payment of such a sum of money for life membership, or such annual or monthly fee as may be prescribed by the Trustees.

1717. The Trustees shall be held accountable for the proper care and preservation of the library, and shall have power to assess and collect all fines, penalties, and fees of membership, and to make all needful rules and regulations not provided for by the State Board of Education, and not inconsistent therewith; and they shall report annually to the County Superintendent all library statistics which may be required by the blanks furnished for the purpose by the Superintendent of Public Instruction.

## ARTICLE XVI.

### COUNTY BOARDS OF EDUCATION.

1768. *First*—Except in any city and county, there shall be a County Board of Education, which shall consist of the County Superintendent of Schools and of four other members, appointed by the Board of Supervisors of the county.

*Second*—Of the members appointed by the Board of Supervisors at least two shall always be experienced teachers, holding not lower than grammar grade certificates in full force and effect.

*Third*—At their last regular meeting preceding the first day of July, in the year eighteen hundred and ninety-three, the Board of Supervisors shall appoint two members, at least one of whom shall be an experienced teacher, to serve on said Board of Education for the period of one year; and also two persons, at least one of whom shall be an experienced teacher, to serve on said Board of Educaeation for the period of two years; and thereafter, each and every year, the Board of Supervisors, at the last regular meeting preceding the first day of July, shall appoint two persons, at least one of whom shall be an experienced teacher, to serve on said Board of Education for the period of two years.

*Fourth*—If the Board of Supervisors of any county refuse or neglect to appoint members of the County Board of Education, as provided in subdivision three of this section, it shall be the duty of the County Superintendent to appoint them. Should a vacancy occur at any time in the County Board of Education, it shall be the duty of the Board of Supervisors to appoint a party to fill such vacancy.

*Fifth*—The members of the County Board of Education, elected or appointed, shall qualify within ten days after receiving notice of their election or appointment.

*Sixth*—The County Board of Education shall organize on the first meeting subsequent to the first day of July in each year, by electing one of their number President of the Board. The County Superintendent shall be *ex officio* Secretary of the Board.

*Seventh*—For the transaction of business three members shall constitute a quorum; but no teacher's certificate shall be issued, renewed, or revoked, nor shall any books or apparatus be adopted, except by an affirmative vote of at least three members of the Board. On the call of any member, the ayes and nays shall be taken upon any proposition, and the vote shall be recorded in the minutes of the Board.

1769. The Superintendent of Schools shall be *ex officio* Secretary of the County Board of Education. The Board shall elect one of their members President.

1770. *First*—Each County Board of Education shall meet semi-annually, at such time as they may determine. Special meetings may be called by the Superintendent whenever in his judgment the exigencies of the schools may require them to be held. Upon the request of any three members, in writing, the Superintendent shall call a special meeting. Notice of all semi-annual meetings shall be given by the Secretary at least ten days prior to the time of meeting; and no business shall be transacted at a special meeting, except as provided in subdivision second of this section, other than such as may be specified in the call of the Secretary.

*Second*—Examination of applicants for teachers' certificates shall be held only at the semi-annual meetings of the Board. Certificates upon credentials may be granted, and certificates may be renewed at any meeting of the Board.

*Third*—The Board of Supervisors shall allow to each member of the County Board of Education a compensation of five dollars per day for his services, and the same rate of mileage as is allowed to the members of the Board of Supervisors of the county. The Secretary shall be allowed the sum of five dollars per day for the actual time that the Board may be in session; said compensation of the members of the Board, and of the Superintendent, shall be payable out of the same fund and in the same manner as the salary of the Superintendent of Schools is paid.

*Fourth*—All expenses for printing required by the County Board of Education, and all incidental expenses incurred for stationery or other purposes in the performance of their duties, shall be audited and paid as other claims against the General Fund of the county are paid.

1771. County Boards of Education have power:

*First*—To adopt rules and regulations, not inconsistent with the laws of this State, for their own government.

*Second*—To prescribe and enforce rules for the examination of teachers.

*Third*—To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to a certificate, and to grant certificates of three grades, valid throughout the county, except as provided in section seventeen hundred and seventy-five, as follows:

1. High School; valid for six years, authorizing the holder to teach in any high school, grammar grade, or primary school; *provided*, that holders of grammar school course certificates shall be entitled to receive high school certificates in lieu thereof.

2. Grammar Grade; valid for six years, authorizing the holder to teach any grammar grade or primary school.

3. Primary; valid for two years, authorizing the holder to teach any primary school.

Also, to grant special certificates, valid for six years, which shall entitle the holder to teach such special branches as may be required by City or County Boards of Education.

*Fourth*—To prescribe and enforce the use of a uniform series of text-books, and a course of study in the public schools, and to adopt a list of books and apparatus for district school libraries.

*Fifth*—To revoke or suspend, for immoral or unprofessional conduct, or evident unfitness for teaching, the certificates granted by them.

*Sixth*—To keep a record of its proceedings.

*Seventh*—To issue diplomas of graduation from any of the public schools of the county, except in incorporated cities having Boards of Education, which diplomas shall be designed by the Superintendent of Public Instruction, and distributed as other blanks from his office. Diplomas shall be issued only to pupils who have passed an examination prescribed by the County Board of Education. Such diplomas shall be signed by the President and Secretary of the County Board, and by the Principal of the school.

*Eighth*—To adopt and use, in authentication of its acts, an official seal; and to have such printing done as may be necessary in the discharge of their duties.

*Ninth*—All examination papers for teachers' certificates shall be kept on file in the office of the Superintendent of Schools for at least one year, and shall be open for the inspection of applicants or their authorized agents.

1772. Except as provided in section seventeen hundred and seventy-five, certificates shall be granted only to those who have passed a satisfactory examination in all the studies prescribed by the County Board of Education; *provided*, that applicants for primary county certificates shall be required to pass an examination only in arithmetic, grammar, geography, composition, history of the United States, orthography, defining, penmanship, reading, methods of teaching, school law, industrial drawing, physiology, civil government, elementary bookkeeping, and vocal music.

1773. All examinations shall be in writing, in answer to questions formulated by the Board of Education. The said Board shall also examine all applicants, orally, touching the questions asked and such other matters in connection therewith as shall have a tendency to demonstrate the fitness of the applicant to assume the duties of teacher. The said Board shall ask questions of practical utility, with a view of ascertaining the knowledge and ability of the applicant. All examinations shall be public.

1774. The standing of each applicant in each study, and in the class, must be indorsed on the back of each certifi-

cate issued upon examination, otherwise it is not a valid certificate.

1775. *First*—The Board may also, without examination, grant county certificates of either the grammar or the primary grade, to the holders of life diplomas of other States; Nevada, Oregon, and Washington State educational diplomas; San Francisco Normal class diplomas, when recommended by the Superintendent of Public Schools of said city; California State University diplomas, when recommended by the Faculty of the University; State Normal School diplomas of other States; grammar grade certificates of any county, city, or city and county of California; and county certificates of the high school grade to holders of California State University diplomas, when recommended by the Faculty of the University; and to graduates of any other institution in the United States which the State Board of Education of this State shall have recommended as being of the same rank as the State University of California, when the diploma of graduation from said institution shall be accompanied by a recommendation from the Faculty thereof, showing that the holder of the diploma has had academic and professional training equivalent to that required by the State University. The general conditions on which such recommendations may be accepted by the County Boards of Education as fulfilling these requirements, shall be prescribed by the State Board of Education.

*Second*—Whenever any holder of a diploma from the State University shall present to the State Board of Education satisfactory evidence of having had two years' successful experience as a teacher subsequent to graduation, accompanied by a recommendation from the Faculty of the State University, showing that said graduate has completed the prescribed course of the Pedagogical Department of the State University, the State Board of Education shall grant to the holder of said University diploma a document signed by the President and Secretary of the State Board, showing such fact, and the said diploma, accompanied by said document of the State Board attached thereto, shall become a permanent certificate of qualification to teach in any primary, grammar, or high school in the State, valid until such time as the said document shall be revoked by said State Board of Education, for any of

the causes shown in subdivision four of section one thousand seven hundred and ninety-one.

*Third*—The Board may, without examination, renew unexpired certificates previously granted by said Board; such renewed certificates to remain valid for the same length of time for which new certificates may be granted; and the grammar grade and primary certificates issued or renewed by the County Board of Education shall entitle the holders thereof to teach in any city or district school in the county, in grades corresponding to the grades of their certificates; *provided*, that in cities having special departments in their schools, holders of credentials mentioned above may be examined by the City Board of Examination in the special studies of such departments. County Boards of Education may issue, upon proper examination or credentials, special certificates in any special branches taught in the schools of the county. All certificates must be issued upon the blank forms prepared for the purpose by the Superintendent of Public Instruction.

1776. Any member of a County Board of Education or of a City Board of Examination who shall, except in the regular course of study in the public schools, teach any classes where pupils are given special instruction to prepare them for passing examination to obtain teachers' certificates, or who shall give special instruction to any person preparing for examination to obtain a teacher's certificate, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, his office shall be declared vacant. No certificate shall be issued to any applicant who has received special instruction, when preparing for examination, from any member of a County Board of Education, or of a City Board of Examination.

## ARTICLE XVII.

### CITY BOARDS OF EXAMINATION.

1787. In every city, or city and county of the first, second, or third class, having a Board of Education, there may be a City Board of Examination.

1788. Each City Board of Examination shall consist of the City Superintendent of Schools, and four other members, residents of such city, all of whom shall be experi-

enced teachers, elected by the City Board of Education, and holding office for two years.

1789. The City Superintendent of Schools is Chairman of the City Board of Examination.

1790. The City Board of Examination must meet and hold examinations for the granting of teachers' certificates semi-annually, at such times as they may determine. They may also hold monthly meetings for the transaction of such business as may come before them. Special meetings may be called by the City Superintendent when in his judgment the same are necessary; and on the request in writing of any three members of the Board, the City Superintendent shall call a special meeting. No business shall be transacted at any special meeting except such as is indicated in the call therefor; and of all special meetings due notice shall be given to each member of the Board. The place of meeting shall be designated by the Chairman. All meetings of the City Board of Examination shall be public, and the record of their proceedings shall be kept in the office of the City Superintendent of Schools.

1791. Each City Board of Examination has power:

*First*—To adopt rules and regulations, not inconsistent with the laws of this State, for its own government and for the examination of teachers.

*Second*—To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to receive: (1) a high school certificate, valid for six years, and authorizing the holder to teach any primary, grammar, or high school in such city; (2) a city certificate, grammar grade, valid for six years, authorizing the holder to teach any primary or grammar school in such city; (3) a city certificate, primary grade, valid for two years, authorizing the holder to teach any primary school in such city. They shall report the result of the examination to the City Board of Education; and said Board of Education shall thereupon issue to the successful candidates the certificates to which they shall be entitled.

*Third*—To recommend applicants for special certificates, valid for a period not to exceed six years, upon such special studies as may be authorized by the City Board of Education of such city.

*Fourth*—For immoral or unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, to

recommend to the City Board of Education the revocation of any certificates previously granted by said Board of Education in such city, or city and county.

1792. City or City and County Boards of Examination may also recommend the granting of city certificates, and the renewal thereof, in the manner provided for the granting and renewal of county certificates by the County Board of Education in section one thousand seven hundred and seventy-five of this Code.

1793. The holders of city certificates are eligible to teach in the cities in which such certificates were granted, in schools of grades corresponding to the grades of such certificates, and when elected shall be dismissed only for insubordination or other causes, as mentioned in section seventeen hundred and ninety-one of this Act, duly ascertained and approved by the Board of Education of said cities; and City Superintendents of Public Schools, elected by City Boards of Education, shall be elected for a term of four years; and said City Boards of Education shall have full power to fix the salary of all employés. The holders of special city certificates are eligible to teach the special studies mentioned in their certificates in all the schools in the city in which such certificates were granted.

1794. The members of the City Board of Examination shall receive such compensation as may be allowed them by the City Board of Education, payable out of the City School Fund.

## ARTICLE XVIII.

### COUNTY SCHOOL TAX.

1817. The County Superintendent of each county having a population of less than two hundred thousand inhabitants must, on or before the first regular meeting of the Board of Supervisors, in September in each year, furnish the Supervisors and the Auditor, respectively, an estimate, in writing, of the minimum amount of County School Fund needed for the ensuing year. This amount he must compute as follows:

*First*—He must ascertain, in the manner provided for in subdivisions one and two of section eighteen hundred and fifty-eight, the total number of teachers for the county.

*Second*—He must calculate the amount required to be

raised at five hundred dollars per teacher. From this amount he must deduct the total amount of State apportionment, and the remainder shall be the minimum amount of County School Fund needed for the ensuing year; *provided*, that if this amount is less than sufficient to raise a sum equal to six dollars for each census child in the county, then the minimum amount shall be such sum as will be equal to six dollars for each census child in the county.

1818. The Board of Supervisors of each county having less than one hundred thousand inhabitants must, annually, at the time of levying other county taxes, levy a tax, to be known as the county school tax, the maximum rate of which must not exceed fifty cents on each one hundred dollars of taxable property in the county, nor the minimum rate be less than sufficient to raise a minimum amount reported by the County Superintendent, in accordance with the provisions of the preceding section. The Supervisors must determine the minimum rate of the county school tax as follows: They must deduct fifteen per cent. from the equalized value of the last general assessment roll, and the amount required to be raised, divided by the remainder of the assessment roll, is the rate to be levied; but if any fraction of a cent occur, it must be taken as a full cent on each one hundred dollars.

1819. If the Supervisors fail to levy the tax as herein provided, then the Auditor must, and add it to the assessment roll.

1820. All moneys derived from this tax in each county must be paid into the treasury thereof, to the credit of the School Fund.

## ARTICLE XIX.

### DISTRICT SCHOOL TAX.

1830. The Board of School Trustees of any district may, prior to the fifteenth day of August in any year, when in their judgment it is advisable, call an election, and submit to the electors of the district the question whether a tax shall be raised to furnish additional school facilities for the district, or to maintain any school in such district, or for building one or more school-houses, or for any two or all of these purposes; *provided*, that where a tax has been collected for the purpose of building a school-house, and

the erection of said school-house shall not have been commenced within two years from the time said tax was collected, the custodian of said money shall return the same to the parties from whom said tax was collected.

1831. Such election must be called by posting notices in three of the most public places in the district, for twenty days, and also, if there is a newspaper in the county, by advertising therein once a week for three weeks.

1832. Such notices must specify the time and place of holding the election, the amount of money proposed to be raised, and the purpose for which it is intended to be used.

1833. The election shall be conducted in conformity to the provisions of sections one thousand five hundred and ninety-six, one thousand five hundred and ninety-seven, one thousand five hundred and ninety-eight, one thousand five hundred and ninety-nine, one thousand six hundred, and one thousand six hundred and one of the Political Code; *provided*, that no particular form of ballot shall be required, nor shall any informalities in conducting such election invalidate the same, if the election shall have been otherwise fairly conducted.

1834. At such elections the ballots must contain the words "Tax—Yes," or "Tax—No."

1835. If a majority of the votes cast upon the question of the tax levy are "Tax—Yes," the officers of the election must certify the fact to the Board of School Trustees.

1836. The Board of School Trustees, upon receipt of a certificate of such fact, must report the same to the Board of Supervisors, stating the amount of money to be raised.

1837. The Board of Supervisors must, at the time of levying the county taxes, levy a tax upon all taxable property in the district voting such tax sufficient to raise the amount voted. The rate of taxation shall be ascertained by deducting fifteen per cent. for anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll of the county, and then dividing the sum voted by the remainder of such aggregate assessed value. The taxes so levied shall be computed and entered on the assessment roll by the County Auditor, and collected at the same time and in the same manner as State and county taxes; and when collected shall be paid into the county treasury for the use of the district in which the tax was voted.

1839. The maximum rate of tax levied by a district tax in any one year for building purposes must not exceed seventy cents on each hundred dollars, and the maximum rate levied for other school purposes must not exceed thirty cents on each hundred dollars for any one year.

## ARTICLE XX.

### GENERAL PROVISIONS RELATIVE TO SCHOOL FUNDS AND TAXES.

1857. No Assessor, Tax Collector, City, City and County, or County Treasurer must charge or receive any fees or compensation whatever for assessing, collecting, receiving, keeping, or disbursing any school moneys, but the whole moneys collected must be paid to the City, City and County, or County Treasurer; *provided*, that said Assessor or Tax Collector, for services rendered in the collection of poll taxes, shall receive the sum of fifteen per cent. of the collections.

1858. All State school moneys apportioned by the Superintendent of Public Instruction must be apportioned to the several counties in proportion to the number of school census children, as shown by the returns of the School Census Marshals of the preceding school year; *provided*, that Indian children whose parents are on Government reservations, or are living in the tribal relation, and Mongolian children not native born, shall not be included in the apportionment list. The School Superintendent in each county must apportion all State and county school moneys as follows:

*First*—He must ascertain the number of teachers each district is entitled to by calculating one teacher for every seventy school census children, or fraction thereof, not less than twenty school census children, as shown by the next preceding school census; *provided*, that all children in any asylum and not attending the public schools, of whom the authorities of said asylum are the guardians, shall not be included in making the estimate of the number of teachers to which the district in which the asylum is located is entitled.

*Second*—He must ascertain the total number of teachers for the county, by adding together the number of teachers assigned to the several districts.

*Third*—Five hundred dollars shall be apportioned to each district for every teacher assigned to it; *provided*, that to districts having ten and less than twenty school census children, shall be apportioned four hundred dollars; *provided further*, that to districts having over seventy school census children and a fraction of less than twenty, there shall be apportioned twenty dollars for each census child in said fraction.

*Fourth*—All school money remaining on hand after apportioning to the districts the moneys provided for in subdivision three of this section, must be apportioned to the several districts in proportion to the average daily attendance in each district during the preceding school year. Census children, wherever mentioned in this chapter, shall be construed to mean those between the ages of five and seventeen years.

*Fifth*—Whenever in any school year, prior to the receipt by the counties, cities, or cities and counties of this State, of their State, county, or city school fund, the school districts or cities shall not have sufficient money to their credit to pay the lawful demands against them, the County, City, or City and County Superintendent shall give the Treasurer of said county, city, or city and county, an estimate of the amount of school money that will next be paid into the County, City, or City and County Treasury, stating the amount to be apportioned to each district. Upon the receipt of such estimate, it shall be the duty of the Treasurer of said county, city, or city and county, to transfer, from any fund not immediately needed to pay claims against it, to the proper School Fund, an amount not to exceed ninety per cent of the amount estimated by the Superintendent, and he shall immediately notify the Superintendent of the amount so transferred. The funds so transferred to the School Fund shall be re-transferred by the Treasurer to the fund from which they were taken, from the first money paid into the School Fund after the transfer.

1859. No school district, except one newly formed, is entitled to receive any apportionment of State or county school moneys which has not maintained a public school for at least six months during the next preceding school year. A district which is prevented by fire, flood, or pre-

vailing epidemic from maintaining a school for the length of time designated in this section, is nevertheless entitled to its apportionment of State and county school moneys.

1860. No school district is entitled to receive any apportionment of State or county school moneys unless the teachers employed in the schools of such district hold legal certificates of fitness for teaching, in full force and effect.

1861. The State School Fund must be used for no other purpose than the payment of the salaries of teachers of primary and grammar schools.

## ARTICLE XXI.

### MISCELLANEOUS PROVISIONS RELATING TO PUBLIC SCHOOLS.

1867. Any parent, guardian, or other person who shall insult or abuse any teacher in the presence of the school shall be guilty of a misdemeanor, and be liable to a fine of not less than ten nor exceeding one hundred dollars.

1868. Any person who shall willfully disturb any public school, or any public school meeting, shall be guilty of a misdemeanor, and liable to a fine of not less than ten nor more than one hundred dollars.

1869. Any State, County, or City and County Superintendent, or any State, County, or City and County Board of Education, who shall issue a certificate or diploma, except as provided for in this title, shall be guilty of a misdemeanor.

1870. No officer named in this title, or teacher in any public school held under the provisions of this title, must act as agent for any author, publisher, bookseller, or other person, to introduce any book, apparatus, furniture, or any other article whatever, in the common schools of this State, or any one or more of them, or directly or indirectly contract for or receive any gift or reward for so introducing or recommending the same; and any officer so acting or receiving must be deemed guilty of a misdemeanor, and, on conviction, be punished by fine or imprisonment, and be removed from office.

1871. Certificates shall be issued to such persons only as shall have given evidence of good moral character.

1873. Every officer, including Secretaries and Assistant Secretaries of Boards of Education, charged with the per-

formance of duties under the provisions of this chapter, may administer and certify oaths relating to officers or official matters concerning public schools.

1874. In the adoption of text-books, all County, City, and City and County Boards of Education shall be governed by the following rules:

*First*—Any books hereafter adopted as a part of a uniform series of text-books must be continued in use for not less than four years.

*Second*—No change of text-books must be made at any other time than in the months of May or June of the year in which the change is made, and no changes shall be made to take effect till the beginning of the school term commencing after the thirtieth day of June of that year; and no books other than those published by the State shall be adopted by the Board of Education of any county, city, city and county, or be used as text-books in any of the public schools of this State in the subjects of reading, orthography, English grammar, arithmetic, geography, United States history, physiology, and civil government.

*Third*—At least sixty days' notice of any proposed change in text-books must be given by publication in a newspaper of general circulation, published in the county, if there be one, in which such change is to be made. If there be no newspaper published in the county, then such publication shall be made in any newspaper having a general circulation in the county. A copy of the newspaper containing such publication, with such notice marked, must, immediately after the first publication thereof, be by the Secretary of the Board transmitted to the State Board of Education, and the same, when received, must be filed by the Secretary of said State Board. Said notice shall state what text-books it is proposed to change; that sealed bids or proposals will be received by the Board for furnishing books to replace them; the place where and the day and hour when all bids or proposals will be opened, and that the Board reserves the right to reject any and all bids or proposals. Said notice shall be published in such newspaper as often as the same shall be issued after the first publication thereof.

*Fourth*—At the time and place specified in said notice, the Board shall meet and publicly open and read all of the bids or proposals which have been received by them, and

shall make their awards thereon within ten days thereafter.

*Fifth*—Said bids or proposals must be accompanied by sample copies of the books proposed to be furnished, together with a statement of the wholesale and retail price at which the publisher agrees to furnish each book within the county, or at San Francisco, during the full time for which said books are to be adopted.

*Sixth*—If no satisfactory bids or proposals are received, then the books already in use may continue in use until changed, as herein provided.

*Seventh*—The publisher or publishers whose proposals shall be accepted, must enter into a written contract with the Board of Education making the award, and shall give a good and sufficient bond in a reasonable sum, to be fixed by the Board of Education, for the faithful performance thereof. Publishers of books already in use may bid under the provisions of this section as well as others, and such bids, if satisfactory, may be accepted by the Board.

*Eighth*—High schools shall be exempt from the provisions of this section.

*Ninth*—Nothing in this Act shall conflict with any provision of law relating to the State series of text-books; nor shall anything be construed to permit the adoption of any text-books upon any subject covered by the State series of books.

1875. If any city or district refuse or neglect to use the books that may be prescribed, or use any other text-books in any of the prescribed studies, the Superintendent of Public Instruction must withhold from such city, town, or district, twenty-five per cent of all State school moneys to which it may be entitled, until it comply; and any moneys so withheld must be apportioned by the Superintendent at the next annual apportionment, in the same manner as other school moneys in the treasury.

1876. No School Trustee or member of any Board of Education must be interested in any contract made by the Board of which he is a member; and any contract made in violation of this provision is void.

1877. All printing or binding required under this chapter, except as provided in subdivision eight of section one thousand seven hundred and seventy-one, must be executed by the State Printer, in the form and manner and

at the prices of other State printing, and be paid for in like manner.

1878. The school year begins on the first day of July and ends on the last day of June.

1879. The offering of any valuable thing to any member of a Board of Education or Board of School Trustees, with the intent thereby to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, Superintendent, or other officer or employe, the adoption of any text-book, or the making of any contract to which the Board of Education of which he is a member shall be a party, or the acceptance by any member of a Board of Education or Board of School Trustees of any valuable thing, with corrupt intent, shall be a misdemeanor, punishable as by law provided. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with any offense described in this section. Any contract or appointment obtained from a Board of Education or Board of School Trustees by corrupt means shall be void.

1880. The Board of Trustees of any school district may, when in their judgment it is advisable, and must, upon petition of a majority of the heads of families residing in the district, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money for purchasing school lots, for building or purchasing one or more school-houses, for insuring the same, for supplying the same with furniture and necessary apparatus, for improving the grounds, and for liquidating any indebtedness already incurred for said purposes.

1881. Such election must be called by posting notices, signed by the Board, in three of the most public places in the district, for not less than twenty days before the election; and if there is a newspaper published in the county, by publishing such notice therein not less than once a week for three successive weeks.

1882. Such notice must contain:

1. The time and place of holding such election.

2. The names of the Inspector and Judges to conduct the same.

3. The hours during the day in which the polls will be open.

4. The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding ten, the whole or any part of said bonds are to run.

1883. Such election shall be conducted in conformity to the provisions of sections one thousand five hundred and ninety-six, one thousand five hundred and ninety-seven, one thousand five hundred and ninety-eight, one thousand five hundred and ninety-nine, one thousand six hundred, one thousand six hundred and one, and one thousand eight hundred and thirty-four, except that the words to appear upon the ballots shall be "Bonds—Yes" or "Bonds—No."

1884. On the seventh day after said election, at one o'clock P. M., the returns having been made to the Board of Trustees, the Board must meet and canvass said returns, and if it appears that two thirds of the votes cast at said election was in favor of issuing such bonds, then the Board shall cause an entry of that fact to be made upon its minutes, and shall certify to the Board of Supervisors of the county all the proceedings had in the premises, and thereupon said Board of Supervisors shall be and they are hereby authorized and directed to issue the bonds of such district, to the number and amount provided in such proceedings, payable out of the Building Fund of such district, naming the same, and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; *provided*, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment book of the county.

1885. The Board of Supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than ten years from the date thereof.

1886. Said bonds must not bear a greater amount of interest than eight per cent; said interest to be payable annually, and said bonds must be sold in the manner prescribed by the Board of Supervisors, but not for less than par, and the proceeds of the sale thereof must be deposited in the County Treasury to the credit of the Building Fund

of said school district, and be drawn out for the purpose aforesaid, as other school moneys are drawn out.

1887. The Board of Supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon ; and during the balance of the term high enough to pay such annual interest, and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run ; and all moneys so levied when collected shall be paid into the County Treasury to the credit of the Building Fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the County Treasurer, upon the warrant of the Auditor, out of the fund provided therefor; and it shall be the duty of the Auditor to cancel and file with the Treasurer the bonds and coupons as rapidly as they are paid.

1888. If the Board of Supervisors of any county which has issued bonds under the provisions of this Act shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the County Treasurer, and the payment thereof refused, the owner may file the bond, together with all unpaid coupons, with the State Controller, taking his receipt therefor, and the same shall be registered in the State Controller's office ; and the State Board of Equalization shall, at their next session, and at each annual equalization thereafter, add to the State tax to be levied in said district, a sufficient rate to realize the amount of principal or interest past due prior to next levy, and the same shall be levied and collected as a part of the State tax, and paid into the State Treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments mature, to the holder of

such registered obligations as shown by the register in the office of the State Controller, until the same shall be fully satisfied and discharged; any balance then remaining being passed to the general account and credit of said district.

1889. Whenever any bonds issued under the provisions of this title shall remain unsold for the period of six months after having been offered for sale in the manner prescribed by the Board of Supervisors, the Board of Trustees or Board of Education of the school district for or on account of which such bonds were issued, or of any school district composed wholly or partly of territory which, at the time of holding the election mentioned in section eighteen hundred and eighty-three, was embraced within the district for or on account of which such bonds were issued, may petition the Board of Supervisors to cause such unsold bonds to be withdrawn from market and canceled. Upon receiving such petition, signed by a majority of the members of said Board of Trustees or Board of Education, the Supervisors shall fix a time for hearing the same, which shall not be more than thirty days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition, in general terms, to be published for ten days prior to the day of hearing, in some newspaper published in said school district, if there is one, and if there is no newspaper published in said school district, then in a newspaper published at the county seat of the county in which such school or some part thereof is situated. At the time and place designated in the notice for hearing said petition, or at any subsequent time to which said hearing may be postponed, the Supervisors shall hear any reasons that may be submitted for or against the granting of the petition, and if they shall deem it for the best interests of the school district named in the petition that such unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that said unsold bonds are canceled, and thereupon said bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

# LAWS RELATING TO HIGH SCHOOLS.

1669. High schools may be established and maintained in the manner provided in sections one thousand six hundred and seventy and one thousand six hundred and seventy-one of the Political Code.

1670. *First*—Any city, incorporated town, or school district having a population of one thousand inhabitants or more, may, by a majority vote of the qualified electors voting at the election held for the purpose of determining the establishment and maintenance of such high school, establish and maintain a high school at the expense of such city, incorporated town, or school district.

*Second*—Whenever a majority of the heads of families, as shown by the last preceding school census, in any city, incorporated town, or school district, having one thousand or more inhabitants, shall unite in a petition to the Board of Education or Board of School Trustees of said city, incorporated town, or school district, for the establishing and maintaining of a high school therein, said Board of Education or Board of School Trustees shall petition the County Superintendent of Schools to call an election in said city, incorporated town, or school district, for the determination of the question.

*Third*—Within twenty days after receiving said petition from said Board of Education or Board of School Trustees, the County Superintendent of Schools shall call an election therein for the determination of the question, and shall appoint three qualified electors thereof to conduct said election. Said election shall be called by posting notice thereof in five of the most public places in said city, incorporated town, or school district, and by publication in a daily or weekly paper therein, if there be one, for not less than fifteen days. Said election shall be conducted in the manner prescribed for conducting school elections. The ballots at such elections shall contain the words "For High School," and the voter shall write or print after said

words on his ballot the word "Yes" or the word "No." It shall be the duty of said election officers to report the result of said election to the County Superintendent of Schools within ten days subsequent to the holding thereof.

*Fourth*—When a majority in each district, as shown by the last preceding school census, of the heads of families residing in two or more school districts in the same county shall unite in a petition to the County Superintendent of Schools for the establishing and maintaining of a union high school district, he shall, within twenty days after receiving said petition, call an election for the determination of the question, and shall appoint three qualified electors in each of the districts petitioning to conduct the election therein. Said election shall be held separately and simultaneously at the public school-house in each of the districts petitioning, and shall be called by posting notices thereof in three of the most public places in each district, one of which places shall be the public school-house in each district, at least ten days before said election. Said election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting school elections. The ballots at such election in each district shall contain the words "For the Union High School," and the voter shall write or print after said words on his ballot the word "Yes" or the word "No." It shall be the duty of said election officers in each district to canvass the vote at said election, and report the result to the County Superintendent of Schools within five days subsequent to the holding of said election.

*Fifth*—If a majority of the votes cast in the election provided for in subdivision three of this section in said city, incorporated town, or school district shall be in favor of establishing and maintaining a high school therein, it shall be the duty of the County Superintendent to call a meeting of the Board of Education or Board of School Trustees of said city, incorporated town, or school district, within fifteen days after receiving the returns of the election held therein, by giving at least ten days' notice, in writing, to every member of said Board of Education or Board of School Trustees. The Board of Education or Board of School Trustees shall, at said meeting, determine the location and the name of the high school.

*Sixth*—If a majority of the votes cast in the districts petitioning for a union high school shall in the aggregate be in favor of establishing and maintaining a union high school therein, the County Superintendent shall, within fifteen days after receiving the returns of the election held therein, direct the Board of School Trustees in each of said districts to call a meeting of the qualified electors of their respective districts, in the manner provided in subdivision twenty of section sixteen hundred and seventeen of the Political Code. At said meeting the qualified electors shall in each district select three representatives. The representatives so chosen shall meet in conjunction with the County Superintendent of Schools at a time and place to be named by the Superintendent, for the purpose of determining the location and name of the union high school. At such meeting the Superintendent shall be Chairman, and shall be entitled to vote and participate in all its proceedings. No change of location of any high school, when once established, shall be made except upon a petition to the County Superintendent of Schools, signed by two-thirds of the heads of families of the high school district, and then only in accordance with all of the provisions for the original location of the school as contained in subdivisions five and six of this section.

*Seventh*—In any city, incorporated town, or school district which shall have established a high school, the Board of Education or Board of School Trustees shall constitute the High School Board, and shall have the management and control of said high school.

*Eighth*—In union high school districts the High School Board shall be composed of the Clerks of the Boards of Trustees of the respective districts uniting; *provided*, that should the union high school district consist of but two school districts, the Union High School Board shall be composed of the Boards of Trustees of both said districts.

*Ninth*—The Union High School Board shall meet within ten days subsequent to the locating and naming of the union high school by the parties selected for that purpose, and shall organize by electing a President and a Clerk from their own number, to serve until the second Saturday of July next succeeding their election; and thereafter the Board shall meet and organize in the same manner on the second Saturday of July of each and every year.

*Tenth*—The respective High School Boards shall hold regular monthly meetings at the high school building, at such times as may be provided in the rules and regulations adopted by them for their own government. Special meetings may be held at the call of the President of the respective Boards. Upon the request, in writing, signed by a majority of any Board, the President of said Board shall call a meeting thereof. Of all special meetings of any Board the members thereof shall have at least two days' notice issued and served by the Clerk thereof. At special meetings no business shall be transacted other than as specified in the call therefor.

*Eleventh*—The powers and duties of the High School Boards shall be such as are now, or as may hereafter be assigned by law to Boards of Education or Boards of School Trustees, including the provisions of sections one thousand eight hundred and eighty to one thousand eight hundred and eighty-eight, inclusive, of the Political Code, relating to the voting and issuance of bonds, except as otherwise provided in this section.

*Twelfth*—The course of studies for the respective high schools shall be prepared by the High School Board, and, except in cities and incorporated towns, shall be subject to the approval of the County Board of Education. Said course of study shall embrace a period of not less than three years; and it shall be such as will prepare graduates therein for admission into the State University. The text-books to be used shall be adopted by the High School Board, subject to the same restrictions as is provided for the adoption of the course of study. The State series shall be used in grades and classes for which they may be adapted.

*Thirteenth*—Graduates of the grammar schools shall be admitted to the high schools without examination. Other applicants of the high school district may be admitted in accordance with such rules as may be prescribed by the High School Board. The High School Board may admit pupils not residing in any high school district, upon the payment of such tuition fees as they may deem proper, and all moneys collected from this source shall be paid into the fund provided for the support of the high school.

*Fourteenth*—In any city, incorporated town, school district, or union high school district which shall have voted

to establish and maintain a high school, it shall be the duty of the High School Board therein to furnish to the authorities whose duty it is to levy taxes, on or before the second Monday of September, an estimate of the cost of purchasing a suitable lot, of procuring plans and specifications, and erecting a suitable building, of furnishing the same, and of fencing and ornamenting the grounds for the accommodation of the school, and of conducting the school for the school year. It shall be the duty of said Board, each and every year thereafter, to present to said authorities, on or before the second Monday of September, an estimate of the amount of money required for conducting the school for the school year.

*Fifteenth*—When such estimate shall have been made, it shall be the duty of the authorities in said city, incorporated town, school district, or union high school district, to levy a special tax upon all of the taxable property of said city, incorporated town, school district, or union high school district, sufficient to raise the amount required by said High School Board, as shown by said estimate. Said tax shall be computed, entered upon the tax roll, and collected in the same manner as other taxes are computed, entered, and collected.

*Sixteenth*—Should the High School Board of any city, incorporated town, school district, or union high school district, refuse or neglect to make the estimate provided for in subdivision fourteen of this section, it shall be the duty of the Superintendent of Schools, upon the petition of five qualified electors thereof, to make such estimate.

*Seventeenth*—Should the authorities whose duty it is to levy the tax, as provided in subdivision fifteen of this section, refuse or neglect to make the levy provided for, it shall be the duty of the County Auditor to make such levy, and add it to the tax roll of said city, incorporated town, school district, or union high school district.

*Eighteenth*—All moneys collected from the levy of the tax provided for by this section shall be paid in cities and incorporated towns into the treasury thereof, to the credit of the High School Fund; and said moneys shall be paid out by the Treasurers of said cities or towns upon the warrants of the High School Board, signed by the President and Clerk thereof.

*Nineteenth*—All moneys collected from said levy in school districts or union high school districts shall be paid into the County Treasury to the credit of the District High School Fund, or the Union High School Fund, respectively, and shall be paid out on the order of the High School Board, signed by the President and Clerk thereof, as other school moneys are paid out.

*Twentieth*—Nothing in this section shall be construed as preventing all of the school districts in any county from uniting to form one or more county high schools; *provided*, that when any city, incorporated town, school district, or union high school district shall vote to maintain a high school, such territory shall be exempt from taxation to support a county high school; *and provided further*, that when any city, incorporated town, school district, or union high school district shall establish a high school prior to the submission of the proposition to establish a county high school, the electors of such city, incorporated town, school district, or union high school district shall be excluded from voting upon said proposition.

*Twenty-first*—When the boundaries of school districts shall for any cause be changed, such change shall not affect the high school district.

*Twenty-second*—Any school district adjacent to a high school district may be admitted to said high school district by action of the Board of Supervisors of the county, upon such terms as may be agreed upon between the Trustees of the school district seeking admission, and the High School Board, whenever a majority of the heads of families, as shown by the last preceding school census, shall present to said Board of Supervisors a petition for such annexation, accompanied by a petition signed by a majority of the members composing the High School Board of the district to which admission is desired.

*Twenty-third*—When the average daily attendance of pupils in any high school during the whole of any school year, after the first school year, shall be ten, or less than ten, the Superintendent of Schools shall suspend the school in said district, and shall report the fact to the Board of Supervisors. Upon receiving such report from the Superintendent, the Board of Supervisors shall declare the high school lapsed, and shall cause the property thereof to be sold. All moneys received from the sale of the property

of the high school district, and all moneys in the treasury to the credit of said high school, shall be distributed by the County Superintendent to the districts composing the high school district, in proportion to the assessed valuation of property in said districts.

*Twenty-fourth*—When, in consequence of distance or of convenience in traveling, it is more convenient for pupils residing in any high school district to attend the high school in another high school district, the High School Board of the latter district may admit such pupils to the high school in their district. The High School Board in the district in which such pupils reside shall, upon demand, give to the High School Board of the district in which such pupils attend, a warrant upon the fund of their district in payment of the tuition of said pupils, equal to the amount charged for the tuition of non-resident pupils, as provided in subdivision thirteenth of this section.

*Twenty-fifth*—(1) When a majority of the heads of families residing in two or more adjacent districts, not in the same county, shall unite in a petition to the County Superintendents of their respective counties for the establishing and maintaining of a joint union high school district, it shall be the duty of said Superintendent, within twenty days after receiving said petition, to call an election in the district or districts in his county petitioning, for the purpose of determining the question, and appoint three qualified electors in each district petitioning, to conduct the election therein. Said election shall be called and conducted in all respects as specified in subdivision fourth of this section, and the result thereof shall be reported by the election officers in each district to the Superintendents of the counties in which the districts are situated, within five days subsequent to the holding of said election.

(2) If a majority of the votes cast in the districts shall, in the aggregate, be in favor of establishing a joint union high school, the County Superintendent in each county shall, within fifteen days after receiving the returns of the election, direct the Board of Trustees in the district or districts, in his respective county, to call a meeting of the qualified electors, as provided in subdivision sixth of this section. At said meeting the qualified electors in each district shall select representatives, as provided in said subdivision. The representatives so chosen shall meet at

a time and place, to be agreed upon among themselves, for the purpose of determining the location and name of the school.

(3) The Joint Union High School Board shall be composed as provided in subdivision eighth of this section; and their powers and duties shall be such as are specified in this section for Union High School Boards; *provided*, that the estimate provided for in subdivision fourteenth of this section shall be furnished to the authorities in each of the counties in which the districts uniting are situated; *and provided further*, that the portion of such estimate to be raised in each district shall be in proportion to the taxable property therein, as shown by the last preceding assessment roll thereof.

(4) All the provisions relative to the levy and collection of the tax necessary to raise the amount estimated as provided, shall apply to the levy and collection of the tax for joint union high schools; *provided*, that the amount collected in each district shall be paid into the treasury of the county in which said district is located, to the credit of a fund to be known as Joint Union High School Fund, and shall be paid out as provided in subdivision nineteenth of this section.

1671. *First*—There may be established in any county in this State, one or more county high schools; *provided*, that at any general or special election held in said county after the passage of this Act, a majority of all the votes cast at such election, upon the proposition to establish a high school, shall be in favor of establishing and maintaining such county high school or schools at the expense of said county.

*Second*—The Board of Supervisors, at any general election to be held in any county after the passage of this Act, upon the presentation of a petition signed by fifty or more qualified electors, taxpayers of said county, must submit the question of establishing and maintaining a county high school to the qualified electors thereof. The Board of Supervisors, if they deem it expedient, may order a special election for such purpose. Said election shall be conducted in the manner prescribed by law for conducting elections. The ballots at such elections shall contain the words "For County High School;" and the voter shall

write or print thereafter on the ballot the word "Yes" or the word "No."

*Third*—If the majority of all the votes cast on the proposition to establish a county high school are in the affirmative, it shall be the duty of the Board of Supervisors, within thirty days after canvassing said vote, to locate the school in some suitable and convenient place in said county. The Board of Supervisors shall also estimate the cost of purchasing a suitable lot, erecting a building and furnishing the same, for the accommodation of such school, together with the cost of conducting such school for the next twelve months; *provided*, that the High School Board may rent suitable rooms for the accommodation of the school. If rooms can be obtained in public school buildings in the place in which said school shall be located, such rooms shall be given the preference.

*Fourth*—When such estimate shall have been made, the Board of Supervisors shall thereupon proceed to levy a special tax upon all of the assessable property of the county, except as provided in subdivision twentieth of section one thousand six hundred and seventy of the Political Code, sufficient to raise the amount estimated as necessary for the purchasing of a lot, procuring plans and specifications, erecting a building, furnishing the same, fencing and ornamenting the grounds, and the cost of running said school for the following twelve (12) months. Said tax shall be computed, entered on the tax roll, and collected in the same manner as other taxes are computed, entered, and collected, and the amount so collected shall be deposited in the County Treasury, and be known and designated as the County High School Fund, and shall be drawn from the treasury as other moneys so appropriated are drawn.

*Fifth*—When the Board of Supervisors shall have properly provided and completed the building, together with the necessary fencing of the lot so purchased, they shall cause the same to be deeded to the County Board of Education, who shall hold the same in trust for the county.

*Sixth*—It shall be the duty of the County Board of Education to furnish to the Board of Supervisors, annually, an estimate of the amount of money needed to pay all of the necessary expenses of running said school; to adopt the necessary text-books (the State series shall be used in

grades and classes for which they are adapted); to adopt and enforce a course of study for said schools; to employ suitable teachers, janitors, and other employes, and discharge such employes when deemed advisable by them; and to do any and all other things necessary to the proper conduct of the school. The course of study shall be such as will, when it is completed by the student, fit him for admission to the University of California.

*Seventh*—It shall be the duty of the Board of Supervisors to include in their annual tax levy the amount estimated by the County Board of Education as needed to pay the expenses of conducting the county high school; and such amount, when collected and paid into the County Treasury, shall be known as the "County High School Fund," and may be drawn therefrom in the following manner, for the purpose of defraying the expenses of conducting said county high school: The County Board of Education shall draw their order on the County Superintendent of Schools, in the manner and form provided by law for School District Trustees drawing orders on their District School Funds, and the County Superintendent shall draw his requisition on the Auditor, who shall draw his warrant on the County Treasurer in favor of the person or persons to whom the amount called for in such requisition is due. All orders, requisitions, and warrants drawn on the "County High School Fund," in all other respects, except as specified in this Act, shall be subject to the law governing school districts.

*Eighth*—In case the qualified electors of any county deem it expedient to establish and maintain more than one county high school, then such additional school or schools may be established and maintained in the manner prescribed in this Act for establishing and maintaining a county high school.

*Ninth*—All high schools shall be open for the admission of graduates holding diplomas from the county grammar schools of the county, and to all pupils of the county who can pass the examination for admission. The examination for admission shall be conducted by the County Board of Education and the Principal of the county high school.

*Tenth*—All proceedings for the establishment of county and union high schools had prior to the passage and ap-

proval of this Act, are hereby validated and declared legal; and said high schools shall continue under the provisions of the law under which they were established, until the first day of July, one thousand eight hundred and ninety-three; thereafter they shall be conducted in accordance with the provisions of this Act.

## LAWS RELATING TO STATE NORMAL SCHOOLS.

354. The Normal Schools at San José and Los Angeles, and any Normal School established after the first day of January, eighteen hundred and eighty-seven, by the State, shall be known as State Normal Schools, and shall each have a Board of Trustees, constituted as follows: The Governor and State Superintendent of Public Instruction shall be members of each Board, and there shall be five members, whose term of office shall be five years, who shall be appointed by the Governor; *provided*, that the Trustees of the State Normal School in office June thirtieth, eighteen hundred and eighty-seven, shall hold office until the end of the terms for which they were appointed; *provided*, that no appointment made after the approval of this Act shall be for a term of more than five years, and the Trustees in office when this Act takes effect shall become members of the Board of Trustees of the State Normal School located nearest to their residences; and the members of any Board of Trustees, when first appointed and organized, shall classify themselves so that the term of one Trustee shall expire annually.

1487. The State Normal Schools have for their objects the education of teachers for the public schools of this State.

1488. The State Normal Schools shall be under the management and control of Boards of Trustees, constituted as provided in section three hundred and fifty-four of the Political Code of the State of California.

1489. The powers and duties of each Board of Trustees are as follows:

*First*—To elect a Secretary, who shall receive such salary, not to exceed one hundred and fifty dollars per annum, as may be allowed by the Board.

*Second*—To prescribe rules for their own government, and for the government of the school.

*Third*—To prescribe rules for the reports of officers and teachers of the school, and for visiting other schools and institutes.

*Fourth*—To provide for the purchase of school apparatus, furniture, stationery, and text-books for the use of the pupils.

*Fifth*—To establish and maintain training or model schools, and require the pupils of the Normal School to teach and instruct classes therein.

*Sixth*—To elect a Principal and other necessary teachers, fix their salaries, and prescribe their duties.

*Seventh*—To issue diplomas of graduation upon the recommendation of the Faculty of the school.

*Eighth*—To control and expend all moneys appropriated for the support and maintenance of the school, and all moneys received from tuition or from donations. In no event shall any moneys appropriated for the support of the school, or received from tuition or donations, be paid or used for compensation or traveling expenses of the Trustees of the school, except when attending the joint meetings provided for by section one thousand four hundred and ninety-two of the Political Code of the State of California, and each Trustee attending such meetings shall receive the same mileage as is allowed by law to members of the Legislature, for not more than two meetings in each school year.

*Ninth*—To cause a record of all their proceedings to be kept, which shall be open to public inspection at the school.

*Tenth*—To keep, open to public inspection, an account of receipts and expenditures.

*Eleventh*—To annually report to the Governor a statement of all their transactions, and of all matters pertaining to the school.

*Twelfth*—To transmit with such report a copy of the principal teacher's annual report.

*Thirteenth*—To revoke any diploma by them granted, on receiving satisfactory evidence that the holder thereof is addicted to drunkenness, is guilty of gross immorality, or is reputedly dishonest in his dealings; *provided*, that such person shall have at least thirty days' previous notice of such contemplated action, and shall, if he asks it, be heard in his own defense.

1490. Each Board of Trustees must hold two regular meetings in each year, and may hold special meetings at the call of the Secretary, when directed by the Chairman.

1491. The time and place of regular meetings must be fixed by the by-laws of the Board. The Secretary must give written notice of the time and place of special meetings to each member of the Board.

1492. Joint meetings of the Boards of Trustees of the State Normal Schools shall be held at least once in each school year, alternately, at the different State Normal Schools. The first meeting shall be held at San José, and thereafter at the other Normal Schools in the order of their organization. At such meetings the Trustees shall have the power, and it shall be their duty:

*First*—To prescribe a uniform series of text-books for use in the State Normal Schools. The State series of text-books shall be used, when published, in the grades and classes for which they are adapted.

*Second*—To prescribe a uniform course of study, and time and standard for graduation from the State Normal Schools.

1494. Every person admitted as a pupil to the Normal School course must be:

*First*—Of good moral character.

*Second*—Of sixteen years of age.

*Third*—Of that class of persons who, if of a proper age, would be admitted in the public schools of this State without restriction.

1495. Teachers holding State certificates of the first or second grades may be admitted from the State at large.

1496. Persons resident of another State may be admitted upon letters of recommendation from the Governor or Superintendent of Schools thereof.

1497. Every person making application for admission as a pupil to the Normal School must, at the time of making such application, file with the Principal of the school a declaration that he enters the school to fit himself for teaching, and that it is his intention to engage in teaching in the public schools of this State, or in the State or Territory where the applicant resides.

1501. The Principal of each State Normal School must make a detailed annual report to the Board of Trustees,

with a catalogue of the pupils, and such other particulars as the Board may require or he may think useful.

1502. The Board of Trustees of any Normal School, or its Executive Committee, may grant permission to the Principal, or any teacher of such school, to attend any County Institute, and give instruction on subjects relating to education in the public schools. [As amended March 23, 1893.]

1503. *First*—The Board of Trustees of each State Normal School, upon the recommendation of the Faculty, may issue to those pupils who worthily complete the full course of study and training prescribed, a diploma of graduation.

*Second*—Said diploma shall entitle the holder thereof to a grammar grade certificate from any City, City and County, or County Board of Education in the State.

*Third*—Whenever any City, City and County, or County Board of Education shall present to the State Board of Education a recommendation showing that the holder of a Normal School diploma has had a successful experience of two years in the public schools of this State subsequent to the granting of such diploma, the State Board of Education shall grant to the holder thereof a document signed by the President and Secretary of the State Board, showing such fact. The said diploma, accompanied by said document of the State Board attached thereto, shall become a permanent certificate of qualification to teach in any primary or grammar school in the State, valid until such time as the said diploma may be revoked, as provided in subdivision thirteen of section fourteen hundred and eighty-nine of this Code.

*Fourth*—Upon presentation of the diploma and document referred to in subdivision third of this section to any City, City and County, or County Superintendent of Schools, said Superintendent shall record the name of the holder thereof in a book provided for that purpose in his office, and the holder thereof shall thenceforth be absolved from the requirement of subdivision first of section sixteen hundred and ninety-six of this Code.

*Fifth*—Said diploma of graduation from any Normal School in this State, when accompanied by a certificate granted by the Faculty of the State University, showing that the holder thereof, subsequent to receiving said diploma, has successfully completed the prescribed course

of instruction in the Pedagogical Department of the State University, shall entitle the holder to a high school certificate authorizing the holder to teach in any primary or grammar school, and in any high school in this State, except those in which the holder would be required to teach languages other than the English.

1504. The Boards of Trustees, or such Trustees as attend the joint meetings, shall have power to appoint a Secretary, who shall receive such compensation, not to exceed twenty dollars for each joint meeting, as the Trustees present at the meeting may order paid. The Secretary shall keep a full record of all the proceedings of the joint meetings of the Trustees, and shall notify the Secretary of each Board of Trustees of any changes made in the course of study or the text-books to be adopted in the State Normal Schools.

1505. The Superintendent of Public Instruction must visit the school from time to time, inquire into its condition and management, enforce the rules and regulations made by the Board, require such reports as he deems proper from the teachers of the school, and exercise a general supervision over the same.

1507. Each order upon the Controller of State by the Board of Trustees of a State Normal School must be signed by the President of the Board and countersigned by the Secretary. Upon presentation of the order aforesaid, signed and countersigned as aforesaid, the Controller of State must draw his warrant upon the State Treasurer, in favor of the Board of Trustees, for any moneys, or any part thereof, appropriated and set apart for the support of the Normal School, and the Treasurer must pay such warrants on presentation.

# EXTRACTS FROM THE POLITICAL CODE.

4. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. The Code establishes the law of this State respecting the subjects to which it relates, and its provisions, and all proceedings under it, are to be liberally construed, with a view to effect its object and to promote justice.

10. Holidays, within the meaning of this Code, are every Sunday, the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, the first Monday of October, the twenty-fifth day of December, every day on which an election is held throughout the State, and every day appointed by the President of the United States, or by the Governor of this State, for a public fast, thanksgiving, or holiday. If the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, or the twenty-fifth day of December fall upon a Sunday, the Monday following is a holiday.

15. Words giving a joint authority to three or more public officers or other persons, are construed as giving such authority to a majority of them, unless it is otherwise expressed in the Act giving the authority.

17. Words used in this Code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration; every mode of oral statement under oath or affirmation is embraced in the term "testify," and every written one in the word "depose;" signature or subscription includes mark, when the person cannot write, his name being written near it,

and witnessed by a person who writes his own name as a witness.

52. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

1. It is the place where one remains when not called elsewhere for labor or other temporary purpose, and to which he returns in seasons of repose.

2. There can only be one residence.

3. A residence cannot be lost until another is gained.

4. The residence of the father during his life, and after his death the residence of the mother while she remains unmarried, is the residence of the unmarried minor child.

5. The residence of the husband is the residence of the wife.

6. The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian.

7. The residence can be changed only by the union of act and intent.

58. Every elector is eligible to the office for which he is an elector, except where otherwise specially provided; and no person is eligible who is not such an elector.

841. No person is capable of holding a civil office who at the time of his election or appointment is not of the age of twenty-one years and a citizen of this State. (See Section 4102 of the Political Code.)

843. No county officer must be appointed or act as the deputy of another officer of the same county, except in cases where the pay of the officer so appointed amounts to a sum less than seventy-five dollars per month.

865. In all cases not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of his principal.

878. Every office, of which the duration is not fixed by law, is held at the pleasure of the appointing power.

879. Every officer must continue to discharge the duties of his office, although his term has expired, until his successor has qualified.

904. Before any officer enters on the duties of his office, he must take and subscribe the following oath:

"I do swear [or affirm] that I will support the Constitution of the United States and the Constitution of the

State of California, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

907. Whenever a different time is not prescribed by law, the oath of office must be taken, subscribed, and filed within ten days after the officer has notice of his election or appointment, or before the expiration of fifteen days from the commencement of his term of office, when no such notice has been given.

908. Except when otherwise provided, the oath may be taken before any officer authorized to administer oaths.

909. Every oath of office, certified by the officer before whom the same was taken, must be filed within the time required by law, except when otherwise specially provided, as follows:

* * * * * *

*Second*—The oath of all officers, elected or appointed for any county, and of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the offices of the Clerks of their respective counties.

920. Members of the Legislature, State, county, city, and township officers, must not be interested in any contract made by them in their official capacity, or by any body or Board of which they are members.

921. State, county, township, and city officers must not be purchasers at any sale, nor venders at any purchase made by them in their official capacity.

996. An office becomes vacant on the happening of either of the following events before the expiration of the term:

*First*—The death of the incumbent.

*Second*—His insanity, found upon a commission of lunacy issued to determine the fact.

*Third*—His resignation.

*Fourth*—His removal from office.

*Fifth*—His ceasing to be an inhabitant of the State, or if the office be local, of the district, county, city, or township for which he was chosen or appointed, or within which the duties of his office are required to be discharged.

*Sixth*—His absence from the State without permission of the Legislature, beyond the period allowed by law.

*Seventh*—His ceasing to discharge the duties of his office

for the period of three consecutive months, except when prevented by sickness, or when absent from the State by permission of the Legislature.

*Eighth*—His conviction of a felony, or of any offense involving a violation of his official duties.

*Ninth*—His refusal or neglect to file his official oath or bond within the time prescribed.

*Tenth*—The decision of a competent tribunal declaring void his election or appointment.

1014. Every public officer is entitled to the possession of all books and papers pertaining to his office, or in the custody of a former incumbent by virtue of his office.

1015. If any person, whether a former incumbent or another person, refuse or neglect to deliver to the actual incumbent any such books or papers, such actual incumbent may apply by petition to any court of record sitting in the county where the person so refusing or neglecting resides, or to any Judge of the Superior Court residing therein, and the Court or officer applied to must proceed, in a summary way, after notice to the adverse party, to hear the allegations and proof of the parties, and to order any such books or papers to be delivered to the petitioners.

1083. Every male citizen of the United States, every male person who shall have acquired the right of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, and whose name shall be enrolled on the Great Register of such county, shall be a qualified elector thereof.

1084. No native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of embezzlement or misappropriation of public money, shall ever exercise the privilege of an elector.

1174. The following is the form of poll lists and tally lists to be kept by the Boards and Clerks of Election:

POLL LIST

Of the election held in the precinct of ——, in the County of ——, on the —— day of ——, in the year A. D. one

thousand eight hundred and ——. A. B., C. D., and E. F., Judges, and G. H. and J. K., Clerks of said election, were respectively sworn (or affirmed), as the law directs, previous to their entering on the duties of their respective offices.

*Number and Name of electors voting.*

| Number. | Name. | Number. | Name. |
|---|---|---|---|
| 1 | A. B. | 3 | E. F. |
| 2 | C. D. | 4 | G. H. |

We hereby certify that the number of electors voting at this election amounts to ——.

Attest:

G. H.,
J. K.,
Clerks.

A. B.,
C. D.,
E. F.,
Board of Election.

TALLY LIST.

*Names of persons voted for, and for what office, containing the number of votes given for each candidate.*

| Governor. | Representatives in Congress | Members of the Legislature. | |
|---|---|---|---|
| | | Senate. | Assembly. |
| | | | |

We hereby certify that A. B. had —— votes for Governor, and C. D. had —— votes for Governor; that E. F. had —— votes for Representative in Congress, etc.

G. H.,
J. K.,
Clerks.

A. B.,
C. D.,
E. F.,
Board of Election.

NOTE.—In school elections, substitute, in the above tally list, Trustee, Collector, or Assessor, for Governor, Representative in Congress, etc., as the case may be.

1175. No list, tally paper, or certificate returned from any election must be set aside or rejected for want of form, nor on account of its not being strictly in accordance with the directions of this title, if it can be satisfactorily understood.

4256. The District Attorney is the public prosecutor, and must:

*Sixth*—Give, when required, and without fee, his opinion (in writing) to county, district, and township officers, on matters relating to the duties of their respective offices.

# EXTRACTS FROM THE PENAL CODE.

19. Except in cases where a different punishment is prescribed by this Code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both.

176. Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

177. When an act or omission is declared by a statute to be a public offense, and no penalty for the offense is prescribed in any statute, the act or omission is punishable as a misdemeanor.

308. Every person who sells or gives or furnishes in any way to another, who is in fact under the age of sixteen years, any tobacco, or preparation of tobacco, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars; *provided, however*, that this section shall not be deemed to apply to articles furnished on prescriptions from physicians authorized by law to practice medicine, nor to persons who supply such articles to their own children, nor to sales made to such minors upon the written consent of the parents or guardians of such minors first obtained in writing by the vender. [Approved March 10, 1891.]

654. Every parent, guardian, or other person who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil thereof, is guilty of a misdemeanor.

772. When an accusation in writing, verified by the oath of any person, is presented to a Superior Court, alleging that any officer within the jurisdiction of the Court has been guilty of charging and collecting illegal fees for services rendered, or to be rendered, in his office, or has

refused or neglected to perform the official duties pertaining to his office, the Court must cite the party charged to appear before the Court, at a time not more than ten nor less than five days from the time the accusation was presented, and on that day, or some other subsequent day not more than twenty days from that on which the accusation was presented, must proceed to hear, in a summary manner, the accusation and evidence offered in support of the same, and the answer and evidence offered by the party accused; and if, on such hearing, it appears that the charge is sustained, the Court must enter a decree that the party accused be deprived of his office, and must enter a judgment for five hundred dollars in favor of the informer, and such costs as are allowed in civil cases.

# ACTS RELATIVE TO EDUCATION.

---

*An Act to make women eligible to educational offices.*

[Approved March 12, 1874.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Women over the age of twenty-one years, who are citizens of the United States, and of this State, shall be eligible to all educational offices within this State, except those from which they are excluded by the Constitution.

SEC. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed. This Act shall take effect from and after its passage.

---

*An Act to enforce the educational rights of children.*

[Approved March 28, 1874.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Every parent, guardian, or other person, in the State of California, having control or charge of any child or children between the ages of eight and fourteen years, shall be required to send any such child or children to a public school for a period of at least two-thirds of the time during which a public school shall be taught in such city, or city and county, or school district, in each school year, commencing on the first day of July, in the year of our Lord one thousand eight hundred and seventy-four, at least twelve weeks of which shall be consecutive, unless such child or children are excused from such attendance by the Board of Education of the city, or city and county, or of the Trustees of the school district in which such parents, guardians, or other persons reside, upon it being shown to their satisfaction that his or her bodily and men-

tal condition has been such as to prevent attendance at school or application to study for the period required, or that the parents or guardians are extremely poor or sick, or that such child or children are taught in a private school, or at home, in such branches as are usually taught in the primary schools of this State, or have already acquired a good knowledge of such branches; *provided*, in case a public school shall not be taught for three months during the year within one mile, by the nearest traveled road, of the residence of any person within the school district, he shall not be liable within the provisions of this Act.

SEC. 2. It shall be the duty of the President of each Board of Education, and of the Clerk of each Board of District Trustees in the State of California, to cause to be posted three notices of this law in the most public places in the city, or city and county, or in the school district, or published in one newspaper therein for three weeks, in the month of June, in each year, the expenses of such publication to be paid out of the School Fund of such city, or city and county, or school district, as the case may require.

SEC. 3. In case any parent, guardian, or other person shall fail to comply with the provisions of this Act, said parent, guardian, or other person shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not more than twenty dollars; and for the second and each subsequent offense the fine shall not be less than twenty dollars nor more than fifty dollars; and the parent, guardian, or other person so convicted shall pay all costs. Each such fine shall be paid to the Clerk of the proper Board of Education, or of the District Trustees.

SEC. 4. And it shall be the duty of the Clerk of each Board of Education and of each Board of Trustees, on the complaint of any teacher or taxpayer, to prosecute all offenses occurring under the provisions of this Act; and any Clerk neglecting to prosecute such offense within ten days after a written notice has been served on him by any teacher or taxpayer within the limits or authority of said Board, unless the person so complained of shall be excused by the proper School Board, shall himself be liable to a fine of not less than twenty dollars nor more than fifty dollars, which fine shall be prosecuted for in the name of the people of the State of California, and the fine so col-

lected shall be paid over to the Clerk of the Board of Education or Trustees of the proper city, or city and county, or school district, to be accounted for as in section three of this Act; and in case such prosecution fail, the expenses thereof shall be paid out of the School Fund of the city, or city and county, or school district in which the case arose.

SEC. 5. And it shall be the duty of the Census Marshal to furnish each Board of Education and of District Trustees with a complete list of all children living within the jurisdiction of said Board, and to note on such lists all children not attending colleges, college schools, private schools, or being taught at home, who are liable to the provisions of this Act; and each teacher teaching within the limits of the jurisdiction of such Board shall be supplied with a list of all children within his or her department or school, and shall call such list each morning on the opening of school, and note the absentees, and the reason of such absence, if any, and, at the close of each term of twelve weeks, shall make a full report to the Board of Education, or of District Trustees, of all such cases of absence, with the names both of children and parents, guardians, or other persons having such children in charge, and said Board shall thereupon forthwith proceed to prosecute such parents, guardians, or other persons, according to the provisions of this Act.

SEC. 6. And whereas the State has provided an institution for the gratuitous instruction of all resident deaf, dumb, or blind children between the ages of six and twenty-one years, every parent or guardian of any child or children afflicted with deafness or blindness shall be required, under the penalties hereinbefore specified, to send such child or children to said institution for a period of not less than five years, unless such child or children shall have been excused by the authorities, and on the grounds specified in section one of this Act.

SEC. 7. Any Justice of the Peace of the proper city, or city and county, or school district, shall have jurisdiction of all offenses committed under the provisions of this Act.

SEC. 8. This Act shall be in force and effect from and after the first day of July, eighteen hundred and seventy-four.

---

*An Act providing for the removal of civil officers for a violation of official duties.*

[Approved March 30, 1874.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Any member of any Board of Directors, Board of Commissioners, or other Board of officers, State, city, county, or district, or other person who has been elected or appointed, or who shall hereafter be elected or appointed to hold, control, build, or manage any public building of this State, or of any county, city, or city and county in this State, or to hold, control, manage, or disburse any of the public funds of this State, or of any county, city, or city and county in this State, or any person acting by, through, or under the authority of any such Board of Directors, Board of Commissioners, or other Board of officers, or other person, as aforesaid, or any other officer in the State who shall be guilty of a willful violation of any of the provisions of the statute under which he or they were or may be hereafter elected or appointed, or of any other statute or statutes of this State, prescribing or defining their duties and powers, or passed for their government and control, or who shall be guilty of any willful violation of official duty, shall be deprived of his office and otherwise punished, in accordance with the provisions of section two of this Act.

SEC. 2. Whenever any complaint in writing, duly verified by the oath of any complainant, shall be presented to the District Court, alleging that any of the officers, or other persons referred to in section one of this Act, have, within the jurisdiction of said Court, been guilty of a violation of the provisions of said section, or of any other statute or statutes of this State which have been or may hereafter be passed for their government and control, or prescribing or defining their duties and powers, it shall be the duty of said Court to cite the party or parties charged to appear before him on a certain day, not more than ten nor less than five days from the time when said complaint shall be presented, and on that day, or some subsequent day, not more than twenty days from that on which said complaint is presented, shall proceed to hear, in a summary manner, the complaint and evidence offered in sup-

port of the same, and the evidence offered by the party or parties complained of; and if, on such hearing, it shall appear that the charge or charges contained in said complaint are sustained, the Court shall enter a decree that said party or parties complained of shall be deprived of his or their office or position, and shall enter judgment for one hundred dollars in favor of the complainant, and for such costs as are allowed in civil cases.

SEC. 3. This Act shall not be construed to repeal or impair the provisions of any other Act concerning officers in force at the time of the passage hereof, but shall be construed to be a cumulative remedy for the enforcement of official duty, and not otherwise.

SEC. 4. This Act shall take effect and be in force from and after its passage.

---

*An Act to prevent discrimination against female teachers.*

[Approved March 30, 1874.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Females employed as teachers in the public schools of this State shall, in all cases, receive the same compensation as is allowed to male teachers for like services, when holding the same grade certificates.

SEC. 2. This Act shall take effect and be in force from and after its passage.

---

*An Act to continue in force school teachers' certificates, State educational diplomas, and life diplomas.*

[Approved April 5, 1880.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All teachers' city, city and county, county, and State certificates, State educational diplomas, life diplomas, and all other teachers' certificates and diplomas issued in the State of California, under and in pursuance of the laws thereof, on or before the thirty-first day of December, A. D. eighteen hundred and seventy-nine, shall be and the same are hereby continued in full force and effect, and shall be deemed valid for all purposes, and to the full extent of time that the same were, and were in-

tended respectively to be, under the said laws, on or before the said thirty-first day of December, A. D. eighteen hundred and seventy-nine.

SEC. 2. This Act shall take effect from and after its passage

---

*An Act to provide for the disposal of moneys remaining in the building fund of any school district, after all bonds and indebtedness shall have been paid and liquidated, arising from the construction of school buildings.*

[Approved March 13, 1883.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All moneys that have been or shall be raised by special tax, for the purpose of erecting school buildings, that shall remain in the hands of the County Treasurer after all bonds that have been or may be issued on account of such buildings shall have been redeemed, and all other indebtedness arising on account of such buildings shall have been liquidated, shall be placed in the County School Fund of the school district for which such moneys were raised, subject to the order of the Trustees of said district.

---

*An Act to encourage and provide for a general vaccination in the State of California.*

[Approved February 20, 1889.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Trustees of the several common school districts in this State, and Boards of common school government in the several cities and towns, are directed to exclude from the benefits of the common schools therein, any child or any person who has not been vaccinated, until such time when said child or person shall be successfully vaccinated; *provided*, that any practicing and licensed physician may certify that the child or person has used due diligence and cannot be vaccinated so as to produce a successful vaccination, whereupon such child or person shall be excepted from the operation of this Act.

SEC. 2. The Trustees or local Board, annually, or at such special times to be stated by the State Board of Health, must give at least ten days' notice, by posting a

notice in two or more public or conspicuous places within their jurisdiction, that provision has been made for the vaccination of any child of suitable age who may desire to attend the common schools, and whose parents or guardians are pecuniarily or otherwise unable to procure vaccination for such child.

SEC. 3. The said Trustees or Board must, within sixty days after the passage of this Act, and every year thereafter, ascertain the number of children or persons in their respective school districts or subdivision of the city school government being of an age suitable to attend common schools, who have not been already vaccinated, and make a list of the names of such children or persons. It also shall be the duty of said Trustees or Board to provide, for the vaccination of all such children or persons in their respective school districts, a good and reliable vaccine virus wherewith to vaccinate such children or persons who have not been vaccinated. And when so vaccinated to give a certificate of vaccination, which certificate shall be evidence thereof for the purpose of complying with section one.

SEC. 4. The necessary expenses incurred by the provisions of this Act shall be paid out of the common school moneys apportioned to the district, city, or town. And if there be not sufficient money, the Trustees must notify the Board of Supervisors of the amount of money necessary, and the Board must, at the time of levying the county tax, levy a tax on the taxable property in the district sufficient to raise the amount needed. The rate of taxation is ascertained by deducting fifteen per cent. for delinquencies from the assessment, and the rate must be based upon the remainder. The tax so levied must be computed and entered upon the assessment roll by the County Auditor, and collected at the same time and in the same manner as State and county taxes, and when collected shall be paid into the County Treasury for the use of the district.

SEC. 5. The Trustees of the several school districts of this State are hereby required to include in their annual report, and report to the Secretary of the State Board of Health, the number in their several districts between the ages of five and seventeen years who are vaccinated and the number unvaccinated.

SEC. 6. This Act shall take effect immediately.

# ACT RELATIVE TO ISSUE OF BONDS BY SCHOOL DISTRICTS.

[Approved March 23, 1893.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The Board of Education of any school district in a city of the fifth class, or of any school district which embraces territory, a portion of which is without such city of the fifth class, may, when in their judgment it is advisable, and must, when requested by the Board of Trustees of such city, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes.

SEC. 2. Such election must be called by posting notices, signed by the Board of Education, in three of the most public places in the district, for not less than twenty days before the election, and by publishing such notices, in some newspaper published in such city, not less than once a week for three successive weeks.

SEC. 3. Such notices must contain:

1. The time and place of holding such election.

2. The names of one Inspector and two Judges in each voting precinct in said district, to conduct the same.

3. The hours during the day, not less than six hours, in which the polls will be open.

4. The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding ten, the whole or any part of said bonds are to run.

SEC. 4. Such election shall be held, in all respects as

nearly as practicable, in conformity with the general election law; *provided*, that no particular form of ballot shall be required, excepting that the words to appear on the ballots, which shall be "Bonds—Yes," or "Bonds—No;" nor shall any informalities, not amounting to fraud in conducting such election, invalidate the same.

SEC. 5. On the seventh day after said election, at one o'clock P. M., the returns having been made to the Board of Education, the Board must meet and canvass said returns, and if it appears that two-thirds of the votes cast at said election were in favor of issuing such bonds, then the Board shall cause an entry of that fact to be made upon its minutes, and shall certify to the Board of Supervisors of the county in which said district is located, the proceedings had in the premises; and thereupon said Board of Supervisors shall be and they are hereby authorized and directed to issue the bonds of such district to the number and amount provided in such proceedings, payable out of the Bond Fund of such district (naming the same), and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; *provided*, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment of the property in such school district.

SEC. 6. The Board of Supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than ten years from the date thereof.

SEC. 7. Said bonds must be payable in gold coin of the United States, must be signed by the President of the Board of Supervisors and countersigned by the Clerk of the county, who must affix the county seal thereto; must not bear a greater rate of interest than eight per cent, said interest to be payable semi-annually in like gold coin, and said bonds must be sold in the manner prescribed by the Board of Supervisors, but for not less than par, in gold coin of the United States, and the proceeds of the sale thereof must be deposited in the County Treasury to the credit of the Building Fund of said school district,

and be drawn out for the purpose aforesaid, as other school moneys are drawn out.

SEC. 8. The Board of Supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term high enough to pay such annual interest, and to pay annually a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all moneys so levied, when collected, shall be paid into the County Treasury to the credit of the Building Fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the County Treasurer, upon the warrant of the Auditor, out of the fund provided therefor; and it shall be the duty of the Auditor to cancel and file with the Treasurer the bonds and coupons as rapidly as they are paid.

SEC. 9. If the Board of Supervisors of any county in which any school district has issued bonds under the provisions of this Act shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the County Treasurer, and the payment thereof refused, the owner may file the bonds, together with all unpaid coupons, with the State Controller, taking his receipt therefor, and the same shall be registered in the State Controller's office; and the State Board of Equalization shall, at their next session, and at each annual equalization thereafter, add to the State tax to be levied in said district a sufficient rate to raise the amount of principal and interest past due prior to the next levy, and the same shall be levied and collected as a part of the State tax, and paid into the State Treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments

mature, to the holder of such registered obligations, as shown by the register in the office of the State Controller, until the same shall be fully satisfied and discharged ; any balance then remaining shall be transmitted to the Treasurer of the county in which is situated the district by which such bonds were issued, and shall be placed by the County Treasurer to the credit of the General School Fund of said district.

SEC. 10. The Act approved March thirty-first, eighteen hundred and ninety-one, entitled "An Act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more school houses and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes," is hereby repealed.

SEC. 11. This Act shall take effect and be in force from and after its passage.

# MANAGEMENT OF SCHOOLS.

## RULES AND REGULATIONS OF THE PUBLIC SCHOOLS OF CALIFORNIA.

[Adopted by the State Board of Education, in accordance with subdivision one of section fifteen hundred and twenty-one of the Political Code, and required to be enforced in all public schools, according to subdivision one of section sixteen hundred and ninety-six of the Political Code.]

SECTION 1. Teachers are required to be present at their respective school-rooms, and to open them for the admission of the pupils, at *fifteen minutes before* the time prescribed for commencing schools, and to observe punctually the hours for opening and closing school.

SEC. 2. Unless otherwise provided by special action of Trustees or Boards of Education, the daily school session shall commence at nine o'clock A. M. and close at four o'clock P. M., with an intermission at noon of one hour, from twelve M. to one o'clock P. M.. There shall be allowed a recess of twenty minutes in the forenoon session—from ten-forty to eleven o'clock—and a recess of twenty minutes in the afternoon session—from two-forty to three o'clock. When boys and girls are allowed separate recesses, fifteen minutes shall be allowed for each recess.

SEC. 3. In graded primary schools in which the average age of the pupils is eight years, the daily session shall not exceed four hours a day, exclusive of the intermission at noon, and inclusive of the recesses. If such schools are opened at nine o'clock A. M., they shall be closed at two o'clock P. M. In ungraded schools, all children under eight years of age shall be either dismissed, *after a four hours' session,* or allowed recesses, for play, of such length that the actual confinement in the school-room shall not exceed *three hours and a half.*

SEC. 4. No pupil shall be detained in school during the intermission at noon, and a pupil detained at any recess

shall be permitted to go out immediately thereafter. All pupils, except those detained for punishment, *shall be required* to pass out of the school-rooms at recess, unless it would occasion an exposure of health.

SEC. 5. Principals shall be held responsible for the general management and discipline of their schools, and the studies pursued ; and the assistant teachers shall follow their directions, and co-operate with them, not only during school hours, but during the time when the pupils are on the school premises, before and after school, and during recesses. Assistants shall be held responsible for the studies, order, and discipline of their own rooms, under the general direction of the Principals.

SEC. 6. Teachers are particularly enjoined to devote their time faithfully to a vigilant and watchful care over the conduct and habits of the pupils *during the time for relaxation and play*, before and after school, and *during the recesses*, both in the school buildings and on the playgrounds.

SEC. 7. It is expected that teachers will exercise a general inspection over the conduct of scholars going to and returning from school. They shall exert their influence to prevent all quarreling and disagreement, all rude and noisy behavior in the streets, all vulgar and profane language, all improper games, and all disrespect to citizens and strangers.

SEC. 8. Teachers shall prescribe such rules for the use of yards, basements, and outbuildings connected with the school-houses, as shall insure their being kept in a neat and proper condition, and *shall examine them* as often as may be necessary for such purpose. Teachers *shall be held responsible* for any want of *neatness or cleanliness* about their school premises.

SEC. 9. Teachers shall give vigilant attention to the *ventilation* and *temperature* of their school-rooms. At each recess the windows and doors shall be opened for the purpose of changing the atmosphere of the room. Teachers are required to exercise reasonable supervision over the text-books of the pupils, to inspect the same from time to time, and prevent their defacement or wanton destruction.

SEC. 10. Teachers shall enter in the school register, in the order of their application, the names of all those applying for admission to the school after the prescribed

UNIV. OF CALIFORNIA

number of pupils has been received. Such applicants shall be admitted to seats whenever a vacancy occurs in any class for which they have been found duly qualified, in the order of their registration.

SEC. 11. Teachers are authorized to *require excuses* from the parents or guardians of pupils, either in person or by written note, in all cases of *absence* or *tardiness*, or of dismissal before the close of school.

SEC. 12. No person shall be allowed to retain connection with any public school, *unless furnished with books, slates, and other utensils* required to be used in the class to which he belongs; *provided*, that no pupil shall be excluded for such cause, unless the parent or guardian shall have been furnished by the the teacher with a list of books or articles needed, and one week shall have elapsed after such notice without the pupil obtaining said books. Books may be furnished to indigent children by the Trustees, at the expense of the district, whenever the teacher shall have *certified in writing* that the pupil applying is unable to purchase such books.

SEC. 13. Any pupil who shall in any way cut or otherwise injure any school-house, or injure any fences, trees, or outbuildings belonging to any of the school estates, or shall write any profane or obscene language, or make any obscene pictures or characters on the school premises, shall be liable to suspension, expulsion, or other punishment, according to the nature of the offense. The *teacher may suspend* a pupil temporarily for such offense, and *shall notify* the Trustees of said action. Pupils shall not be allowed to remain in any of the rooms that are provided with improved styles of furniture, except in the presence of a teacher, or a monitor who is made especially responsible for the care of the seats and desks. All damage done to school property by any of the pupils shall be repaired at the expense of the party committing the trespass. Within one week of any damage to school property, teachers shall notify the Trustees, or be held personally responsible.

SEC. 14. All pupils who go to school without proper attention having been given to personal cleanliness, or neatness of dress, shall be sent home to be properly prepared for school, or shall be required to prepare themselves for

the school-room before entering. Every school-room *shall be provided* with a wash basin, soap, and towels.

SEC. 15. No pupils affected with any *contagious disease* shall be allowed to remain in any of the public schools.

SEC. 16. The books used and the studies pursued shall be *such, and such only*, as may be authorized by the local Board of Education; and no teacher shall require or advise any of the pupils to purchase for use in the schools any book not contained in the list of books directed and authorized to be used in the schools.

SEC. 17. It shall be the duty of the teachers of the schools to read to the pupils, from time to time, so much of the school regulations as apply to them, that they may have a clear understanding of the rules by which they are governed.

SEC. 18. In all primary schools, exercises in free calisthenics and vocal and *breathing exercises* shall be given at least twice a day, and for a time not less than from three to five minutes for each exercise.

SEC. 19. The following supplies shall be provided by the District Clerk under the provisions of section one thousand six hundred and fifty-one of the Political Code, on the written requisition of the teachers, viz.: Clocks, brooms, dusting brushes, wash basins, water buckets, tin cups, dustpans, matches, ink, ink bottles, pens, penholders, pencils, crayon chalk, writing and drawing paper, hand bells, coal buckets or wood boxes, shovels, pokers, *soap*, towels, thermometers, door mats, and scrapers.

SEC. 20. Trustees are required to employ a suitable person to sweep and take care of the school-house, and they shall make suitable provision for supplying the school with water. (See Section 1617, Subdivision 7.) In the case of the failure of the Trustees to employ a janitor, as provided for in section sixteen hundred and seventeen, subdivision seventh, of this Code, the County Superintendent shall appoint a janitor, who shall be paid out of the School Fund of the district. (See Section 1543, Subdivision 12.)

SEC. 21. It shall be the duty of teachers to report to the County Superintendent the books used in their schools, together with the number of pupils in the several divisions of each grade. This report must be made at the begin-

ning and close of each school session or year. (See, also, Section 1696, Subdivisions 5 and 6.)

SEC. 22. The District Clerk, at the close of each term of school, or whenever a teacher is discharged, shall certify on the back of the order for the *last month's* salary that the State School Register has been properly kept.

---

## RULES FOR PUPILS.

1. Every pupil is expected to attend school punctually and regularly; to conform to the regulations of the school, and to obey promptly all the directions of the teachers; to observe good order and propriety of deportment; to be diligent in study, respectful to teachers, and kind and obliging to schoolmates; to refrain entirely from the use of profane and vulgar language, and to be clean and neat in person and clothing.

2. Pupils are required, in all cases of absence, to bring, on their return to school, an excuse, in writing, from their parents or guardians, assigning good and sufficient reasons for such absence.

3. All pupils who have fallen behind their grades, by absence or irregularity of attendance, by indolence or inattention, shall be placed in the grade below, at the discretion of the teacher.

4. No pupil shall be permitted to leave school at recess, or at any other time before the regular hour for closing school, except in case of sickness, or on written request of parent or guardian.

5. Any scholar who shall be absent one week without giving notice to the teacher, shall lose all claim to his particular desk for the remainder of the term, and shall not be considered a member of the school.

6. Each scholar shall have a particular desk, and shall keep the same and the floor beneath in a neat and orderly manner.

---

## INSTRUCTIONS TO TEACHERS.

1. Teachers will endeavor to make themselves acquainted with parents and guardians, in order to secure their aid and co-operation, and to better understand the temperaments, characteristics, and wants of the children.

2. Teachers shall daily examine the lessons of their various classes, and make such special preparations upon them, if necessary, as not to be constantly confined to the text-book; and instruct all their pupils, without partiality, in those branches of school studies which their various classes may be pursuing. In all their intercourse with their scholars they are required to strive to impress on their minds, both by precept and example, the great importance of continued efforts for improvement in morals and manners, and deportment, as well as in useful learning.

3. Teachers should explain each new lesson assigned, if necessary, by familiar remarks and illustrations; that every pupil may know, before he is sent to his seat, what he is expected to do at the next recitation, and how it is to be done.

4. Teachers should only use the text-book for occasional reference, and should not permit it to be taken to the recitation, to be referred to by the pupils, except in cases of such exercises as absolutely require it. They should assign many questions of their own preparing, involving an application of what the pupils have learned to the business of life.

5. Teachers should endeavor to arouse and affix the attention of the whole class, and to occupy and to bring into action as many of the faculties of the pupils as possible. They should never proceed with the recitation without the attention of the whole class, nor go round the class with recitations always in the same order or in regular rotation.

6. Teachers should at all times exhibit proper animation themselves, manifesting a lively interest in the subject taught; avoid all heavy, plodding movements, all formal routine in teaching, lest the pupil be dull and drowsy, and imbibe the notion that he studies only to recite.

---

## DISTRICT LIBRARIES.

The Library Fund is deducted from the County School Fund annually apportioned to districts and cities, in accordance with sections one thousand seven hundred and

thirteen and one thousand seven hundred and fourteen of the Political Code.

Boards of Trustees and of Education must expend this fund in the purchase of apparatus, *and of such books only* as are adopted by the County Boards of Education, and *for no other purpose whatever*.

The Library Fund is sufficient to create the nucleus of a library, which, if judiciously chosen and protected, cannot fail to add greatly to the intellectual resources of the district.

Every district library should provide itself with a suitable bookcase and Librarian's book; the school teacher should act as Librarian during the school term, and a report of the condition and wants of the library should accompany each annual report.

Every district library should contain a bound copy of the school law, the reports of the State Superintendent of Public Instruction, and a *school record book*, to be kept permanently in the library, containing the names of school officers and teachers, the names and standing of scholars, with notices by teachers or pupils of any memorable incidents in the history of the school.*

Those districts which already have a fair collection will do well to purchase sets of standard authors. As a general rule, however, the aim should be to make the library do the greatest good to the greatest number. We advise that the first purchase should be of *books of reference* only, which are to the scholar what the railroad guide is to the traveler. Next to knowing a thing is knowing where to find what is known about it; and books of reference, though they seem costly, are the most valuable and the cheapest for small libraries.

---

## RULES FOR DISTRICT LIBRARIES.

1. The Librarian appointed by the Trustees shall properly label and number each book in the district library, and keep a catalogue of the same, showing the title and number of each book.

---

* Superintendents will cheerfully give any desired assistance to District Trustees in making selections.

2. The library shall be open for drawing and returning books [here insert such time as may be determined by the Trustees and Librarian].

3. Every child attending school shall be entitled to the privileges of the library; but when the number of the books is insufficient to supply all the pupils, the Librarian shall determine the manner in which books may be drawn.

4. No person shall be entitled to two books from the library at the same time, and no family shall draw more than one book while other families wishing books remain unsupplied.

5. No person shall loan a library book to any one out of his own house, under a penalty of fifty cents for each offense.

6. No person shall retain a book from the library more than two weeks, under a penalty of ten cents for each day he may so retain it; and no person may draw the same book a second time while any other person wishes to draw it.

7. Any person losing or destroying a library book shall pay the cost of such book and a fine of fifty cents; and any person injuring a book by marking, tearing, or unnecessarily soiling it, shall be liable to a fine of not less than ten cents nor more than the cost of the book, to be determined by the Librarian.

8. Any person refusing or neglecting to pay any penalty or fine shall not be allowed to draw any book from the library.

9. The Librarian shall report to the Trustees, quarterly, the amount of fines imposed and collected, and the amount received for membership dues; and all moneys accruing from these sources shall be expended for the purchase or repair of books.

10. Any person, other than pupils attending, resident in the school district, may become entitled to the privileges of the school library by the payment of an admission fee of one dollar and a monthly membership of twenty-five cents.

11. Any person resident in the district who shall pay to the Trustees the sum of ten dollars shall be entitled to a life membership privilege of the library.

12. The Librarian shall report, annually, to the District

Clerk, on or before the first day of July, the number and condition of books in the library, the number and titles of books received by donation, the number and titles of books purchased, the amount of State School Library Fund expended, and the amount derived from fines and membership fees.

It is the duty of the Clerk of each Board of District Trustees and the Secretary of each Board of Education to place each number of the official educational journal in the school library of his district on or before the end of the month in which such number was issued.

NOTE—Each library book must be stamped with the official district stamp. (See Section 1712, Subdivision 2, School Law.)

## SUPREME COURT DECISIONS.

---

1. No statute should be so construed as to give it a retrospective effect to divest the rights of individuals vested previous to its passage, or previous to the time the Act took effect, unless such intention be expressed in terms.

Thorn v. San Francisco, 4 Cal., 127.

2. When an officer is elected to a new term, he should give a new bond.

The People v. Aikenhead, 5 Cal., 106.

3. The sureties on the bond of an officer for one term will not be liable for any act done by him after election to a second term.

The People v. Aikenhead, 5 Cal., 106.

4. A resignation is effective without its acceptance by the appointing power.

The People v. Porter, 6 Cal., 26.

5. The power to remove an officer is an incident to the power to appoint, as a general proposition, and is made so expressly by the Constitution.

People v. Hill, 7 Cal., 97.

6. The rule is well settled that the mere receiving and counting votes, improperly given, will not invalidate an election.

Whitney v. McKune, 12 Cal., 352.

7. The fact that the candidate receiving the highest number of votes at an election by the people is ineligible, does not give the office to the next highest on the list.

Saunders v. Haynes, 13 Cal., 145.

8. Where the statute confers on an officer power to appoint a deputy, but does not prescribe the duties of the deputy, the deputy has full power to do any and all acts which his principal may perform by virtue of his office.

Muller v. Boggs, 25 Cal., 175.

9. The Legislature of this State has no power to authorize electors to give their votes at any place outside of the county or district in which they have had a legal residence for thirty days previous to the election.

Bourland v. Hildreth, 26 Cal., 161.

10. When an elector moves his family to a county with the intention of residing there, that is the county where he should vote, while his family remains there, although he passes his time and works in an adjoining county.

People v. Holden, 28 Cal., 123.

11. The thirty days' residence in a county to entitle an elector to vote must be ascertained by excluding the day of election.

People v. Holden, 28 Cal., 123.

12. The incumbent of an office created by the Legislature, who has been elected or appointed to the same, notwithstanding the expiration of the term for which he was elected or appointed, continues to hold the office until a successor has been duly elected or appointed.

People v. Stratton, 28 Cal., 382.

13. An alien cannot hold office in this State.

Walter v. Robolt, 30 Cal., 185.

14. Whenever the word "month" is used in the Constitution and laws of this State, without any qualification, a calendar and not a lunar month is intended.

Sprague v. Norway, 31 Cal., 173.

15. Whenever the Legislature of this State raises a fund, by taxation or otherwise, for the support of common schools, any contemporaneous or subsequent legislation, having for its object the diversion of such fund to any other purpose, is in contravention of the second section of Article IX of the State Constitution, and is void.

Crosby v. Lyon, 37 Cal., 242.

16. The clause of Section 2, Article IX, of the Constitution, which provides " * * * *and such other means* as the Legislature may provide, shall be inviolably appropriated to the support of schools throughout the State," includes as such "*means*" any fund arising from annual taxation for school purposes, levied under general laws passed for that purpose.

Crosby v. Lyon, 37 Cal., 242.

17. A statute having the effect to exempt the taxable property of a railroad company in any county from the payment of a school tax lawfully levied upon the taxable property within such county, is in contravention of Section 13, of Article XI, of the Constitution, which provides that "taxation shall be equal and uniform throughout the State," and so far is void.

Crosby v. Lyon, 37 Cal., 242.

18. When the term of an officer expires, and the law or the Constitution authorizes him to hold over until his successor is elected and qualified, the old incumbent is authorized to discharge the duties of the office until a qualified successor presents himself, who has been elected by the body upon which the power of election is devolved.

People v. Tilton, 37 Cal., 614.

19. When a statute does not designate the particular officer by whom a required oath may be administered and certified, it may be taken before any officer having general authority to administer and certify oaths.

Dunn v. Ketchum, 38 Cal., 93.

20. A tax for school purposes can only be levied after the question has been submitted to the qualified electors of the district, in the manner pointed out by the statute.

People v. Castro, 39 Cal., 65.

21. If the Principal of a public graded school refuses to receive a child into the school for a reason which is not good law, but there is a good legal reason for the refusal, the Principal, on mandamus to compel him to admit such child, will not be precluded from relying on the true reason why the child should have been refused admittance.

Ward v. Flood, 48 Cal., 36.

22. A Principal of a public school may refuse a child admission as a scholar, provided such child has not sufficient education to enter the lowest grade of such school.

Ward v. Flood, 48 Cal., 36.

23. The privilege accorded to a child of attending the public schools is not a privilege appertaining to a citizen of the United States as such, nor can any person demand admission into such schools on the mere status of citizenship.

Ward v. Flood, 48 Cal., 36.

24. The opportunity of instruction in public schools, given by the statute to the youth of the State, is in obedience to the special command of the State Constitution, and the privilege thereby granted is a *legal right*, as much so as a *vested right* in property.

Ward v. Flood, 48 Cal., 36.

25. A contract made in violation of law is void, and no damages can be recovered for its non-fulfillment.

McCullough v. Board of Ed., 51 Cal., 418.

26. The office of School Superintendent of a county is a civil office within the meaning of Section 21 (Section 20 of the new Constitution), Article IV, of the Constitution of the State.

Crawford v. Dunbar, 52 Cal., 36.

27. The candidate for an office who does not receive a majority or a plurality of the votes is not elected because the opposing candidate who did receive a majority or plurality of the votes was ineligible.

Crawford v. Dunbar, 52 Cal., 36.

28. An election held for the purpose of imposing a tax in a school district must be held in strict conformity with the law.

People v. Seale, 52 Cal., 620.

29. Under Section 996 of the Political Code, an office becomes vacant, *ipso facto*, upon the incumbent ceasing to be an inhabitant of the district (if the office be local) for which he was elected, or within which the duties of the office are required to be discharged; and a successor may be appointed without a previous adjudication that the office is vacant.

The People ex rel. Tracy v. Brite, 55 Cal., 79.

30. The fixing of the salaries of teachers is a part of the management of the schools, and comes within the meaning of that term as used in subdivision 27 of Section 25, Article IV, of the Constitution.

Earle v. Board of Ed., 55 Cal., 489.

31. It is not essential to the dedication of land that the legal title should pass from the owner; nor is it essential that there should be any grantee of the use or easement *in esse* to take the fee, such cases being exceptions to the general rule requiring a grantee; nor is a deed or writing

necessary to constitute a valid dedication; it may be by parol; no specific length of possession is necessary to constitute a valid dedication. Dedications of land for public or charitable uses are good without a donee to take title.

Carpenteria School Dist. v. Heath, 56 Cal., 478.

32. Under Section 996 of the Political Code, an office becomes vacant when the person elected thereto does not qualify at all, and fails to file his official oath or bond within the time prescribed.

People v. Taylor, 57 Cal., 620;
Payne v. San Francisco, 3 Cal., 125.

33. A resolution of a Board of Trustees that an election should be called to submit to the electors of a school district whether a tax of $2,500 should be raised for maintaining the school for the remainder of the year, and for the purchasing and inclosing the school grounds, and completing the school building in said district, and the notice of the election being substantially to the same effect, it was held that there was a substantial compliance with the law notwithstanding the notice did not specify separately the amounts to be raised for each particular purpose.

The People v. Pratt, 59 Cal., 77.

34. A school district is a corporation organized for educational purposes, and can therefore take by will.

Estate of Henry M. Bulmer, 59 Cal., 130.

35. The assignment of his salary by a public officer before it becomes due, is contrary to public policy, and void.

Bangs v. Dunn, 66 Cal., 72.

36. Children between six and twenty-one years of age, of Chinese parentage, who were born and have always lived in the City and County of San Francisco, are entitled to admission into the public schools of the district in which they reside; and teachers are not justified in excluding them, notwithstanding a resolution of the Board of Education purports to command them to do so.

Tape v. Hurley, 66 Cal., 473.

37. The teacher of a public school is the only necessary defendant in a proceeding to compel the admission thereto of a child unlawfully excluded.

Tape v. Hurley, 66 Cal., 473.

38. A public office does not become vacant, except upon the happening of one of the events enumerated in Section 996 of the Political Code.

Rosborough v. Boordman, 67 Cal., 116.

39. Powers conferred upon a municipal corporation, involving the exercise of judgment and discretion, are in the nature of public trusts, and cannot be delegated to others.

Scolley v. Butte Co., 67 Cal., 249.

40. An employe dismissed by his employer for good cause is not entitled to any compensation for services rendered since the last day upon which a payment became due to him under the contract of employment.

Hartman v. Rogers, 69 Cal., 643.

41. An order for a requisition drawn on the County Superintendent of Public Schools by two of the Trustees of a school district, one of whom is personally interested in it, and, therefore, incompetent to act, is void for want of the sanction of a competent majority of the Board of Trustees, whether the interested Trustee has acted fairly or unfairly in the matter.

Shakspear v. Smith, 77 Cal., 638.

42. In an action by a taxpayer to compel the cancellation of such order, and to restrain the Superintendent of Schools from drawing a requisition on the County Auditor, the parties interested in the order and the Superintendent of Schools may be properly joined as parties defendant.

Shakspear v. Smith, 77 Cal., 638.

43. Such an order is not a negotiable instrument in the sense that an innocent holder for value is protected.

Shakspear v. Smith, 77 Cal., 638.

44. Mandamus will lie to compel the Board of Education of the City and County of San Francisco to draw its draft upon the School Fund to pay for supplies furnished to the schools under its care, in pursuance of its contract for such supplies; and the remedy against its members by action for damages is not so competent to afford relief upon the very subject matter of the application, or so convenient, beneficial, and effective, as the proceeding by *mandamus*, and will not, therefore, supersede that remedy.

Raisch v. Board of Education, 81 Cal., 542.

45. It is no objection to such *mandamus* that the Board of Education has discretion to allow or reject a claim. It can only reject a claim for good cause, and not arbitrarily or capriciously, without semblance of cause. When the findings of the court below, which are not assailed, establish clearly that supplies were furnished under a contract with the Board of Education, and that it has refused to draw its draft to pay for them, its contract for the purchase of the supplies must be construed as a contract to draw its draft upon the School Fund for the purchase money, and not to pay money directly, and a proceeding against it by *mandamus* to compel the drawing of such draft will be sustained.

Raisch v. Board of Education, 81 Cal., 542.

46. Subsequent to the Act of April 7, 1880, repealing Sections 1669, 1670, and 1671, of the Political Code, and under the existing laws touching the education of children in the public schools, it has not been, and is not now, within the power of Boards of Education or School Trustees to establish public schools exclusively for children of African descent, or to exclude them from the public schools established for white children.

Mysinger v. Crookshanks, 82 Cal., 588.

47. Construing Section 1793 of the Political Code with Section 1617 of the same Code (which should be done, since they form part of the same statute upon the same subject), a teacher, elected by a City Board of Education, without limitation as to time, is entitled to hold the position while competent and faithful, and can only be dismissed for violation of the rules of the Board of Education, or for incompetency, or for unprofessional or immoral conduct; nor can such teacher be transferred against his will to a school of lower grade, without contravention of the law.

Kennedy v. Board of Education, 82 Cal., 483.

48. The clause of Section 1793 of the Political Code, forbidding the removal of teachers, except for cause, which was added by amendment in the year 1881, applies to all teachers elected by Boards of Education, and protects them in the right to continue in their positions, whether they were elected before or after its enactment.

Kennedy v. Board of Education, 82 Cal., 483.

49. The statute does not forbid the transfer of a teacher by the Board of Education from one school to another of the same grade, but merely guarantees the right of the teacher to continue in the grade to which he was elected under his city certificate. Removal from the grade in which the certificate and the statute confer the right to teach is as much a violation of the statute as if the teacher were dismissed without cause, and not given another position.

Kennedy v. Board of Education, 82 Cal., 483.

50. The general provisions of the Political Code, as to the control of city schools by the Board of Education, are applicable to the City and County of San Francisco; and it is not governed by the Consolidation Act alone. The general statute which applies to all cities must control special statutes made applicable to particular cities.

Kennedy v. Board of Education, 82 Cal., 483.

51. The rules adopted by the Board of Education cannot control the provisions of the statute, and are immaterial in determining the statutory rights of a teacher.

Kennedy v. Board of Education, 82 Cal., 483.

52. The fact that another teacher has been placed in the position from which the teacher originally entitled thereto has been unlawfully removed, cannot affect the right of the removed teacher to a *mandamus* to regain the position. The position is not in the nature of an office, within the rule that *mandamus* cannot be used to regain an office claimed by or in possession of another.

Kennedy v. Board of Education, 82 Cal., 483.

53. *Mandamus* is the proper remedy to restore a teacher in the public schools to a right given by express law, from which he is unlawfully precluded.

Kennedy v. Board of Education, 82 Cal., 483.

54. Subsequent to the Act of April 7, 1880, repealing Sections 1669, 1670, and 1671 of the Political Code, and under the existing laws touching the education of children in the public schools, it has not been, and is not now, within the power of Boards of Education or School Trustees to establish public schools exclusively of African descent or to exclude them from the public schools established for white children.

Mysinger v. Crookshanks, 82 Cal., 558.

55. The Act of 1889, entitled "An Act to encourage and provide for a general vaccination in the State of California," which provides for the vaccination of all children attending the public schools, and for the exclusion of unvaccinated children therefrom, sufficiently expresses the subject of the Act in its title, is sufficiently general in its scope, and is a constitutional exercise of the public power of the Legislature.

Abeel v. Clark, 84 Cal., 226.

56. It is for the Legislature to determine what is for the public good, and what are necessary and salutary burdens to impose upon a general class of persons to prevent the spread of disease, and its discretion cannot be controlled by the courts, if its action is not clearly evasive and unlawful, under pretense of lawful authority.

Abeel v. Clark, 84 Cal., 226.

57. In a proceeding for a writ of *mandamus* to a Board of School Trustees, to compel them to proceed to rebuild upon the old site a school building, which has been destroyed by fire, where it appears that it was resolved, at a meeting of the electors of the district, that the site should not be changed, and the district had been for a number of years in possession of the lot, using it for school purposes, under such circumstances as to authorize its continued use for such purposes, the Trustees cannot raise the question of title to the lot, or plead that the district had no title thereto, as a defense to the proceeding.

Eby v. Trustees of Red Bank School District, 87 Cal., 166.

58. A taxpayer of a school district, whose children attend the school, is a party "beneficially interested," under Section 1086 of the Code of Civil Procedure, providing for the issuance of a writ of mandate, "on the application of a party beneficially interested," and may maintain a proceeding for a writ of mandate to compel the Board of School Trustees to comply with the instructions of the electors as to the location of the school-house site.

Eby v. Board of Trustees of Red Bank School District, 84 Cal., 166.

59. Section 9, of Article II, of the Constitution, forbidding the compensation of any county, city, town, or municipal officer from being increased after his election or

during his term of office, only applies to the compensation for services to be rendered, and does not forbid an allowance for the incidental expenses of the office, to be determined by the necessity which the business of the office may develop.

Kirkwood v. Soto, 87 Cal., 394.

60. The County Government Act, fixing a salary for County Superintendents of Schools, "as compensation for the services required of them by law, or by virtue of their office," does not prevent the application of the amendment of Section 1552 of the Political Code, made in March, 1889, allowing each County Superintendent his traveling expenses, and other incidental expenses connected with the office, at the time of the amendment.

Kirkwood v. Soto, 87 Cal., 394.

61. An appointee is not required to qualify until he has received his commission, and his failure to qualify cannot create a vacancy if he has received no commission.

87 Cal., 475.

62. The Board of Education of the City and County of San Francisco is a creature of the Legislature, and has only such powers as have been conferred on it, and has no authority to divert the moneys of the School Fund to any purposes other than such as have been expressly authorized by law.

Barry v. Goad, 89 Cal., 215.

63. The power of the Board of Education of the City and County of San Francisco to employ "teachers" for the public schools confers upon them no authority to employ "inspecting teachers," whose duties, under the resolution appointing them, in no respect appertain to instruction, but are simply those which would pertain to a Superintendent or Director of the several schools to which their attention is directed.

Barry v. Goad, 89 Cal., 215.

64. A resident and taxpayer may maintain an action to restrain the Board of Education of the City and County of San Francisco from drawing drafts for compensation for services rendered and to be rendered under an appointment from the Board which is authorized by law.

Barry v. Goad, 89 Cal., 215.

65. A Superintendent of Schools is not liable to a *bona fide* purchaser of school warrants for the amount paid to the deputy Superintendent for warrants forged by such deputy, and presented and sold by him to the purchaser.

Fresno National Bank v. Hawkins, 93 Cal., 551.

66. The indorsement of the date of filing upon forged school warrants gives them neither validity, negotiability, nor additional value, aside from fixing the date of filing in the Superintendent's office; and such an indorsement by a deputy Superintendent of Schools creates no personal liability against the Superintendent of Schools in favor of a purchaser of the forged warrants.

Fresno National Bank v. Hawkins, 93 Cal., 551.

67. A Principal is not liable for acts of his deputy out of the line of his official duty, and beyond the power conferred upon him by virtue of his appointment as deputy.

Fresno National Bank v. Hawkins, 93 Cal., 551.

68. A school district, when organized as provided by the Political Code, is a public corporation of a *quasi* municipal character, possessing such authority as has been conferred by the Legislature, to be exercised in the mode and within the limits prescribed by the statute.

Hughes v. Ewing, 93 Cal., 414.

69. The Legislature has the power to change the boundaries of a school district, and in the exercise of such power it may make such provision respecting the property and obligations of the corporation as it may deem equitable or proper, and its action is conclusive.

Hughes v. Ewing, 93 Cal., 414.

70. When the boundaries of a school district are changed, either by forming a new corporation out of the territory of the original one or by transferring a portion of the territory to another corporation, in the absence of any provision on the subject the old corporation will be entitled to all the property and be solely liable for all the obligations, and the territory taken therefrom will not be entitled to any of the corporate property or liable for any of the obligations of the old corporation.

Hughes v. Ewing, 93 Cal., 414.

71. Although the Legislature cannot directly impose taxes upon counties or other public corporations, it has

authority to vest the power of taxation in them by general laws, and such corporations have no power to impose taxes other than that granted by the Legislature, and its exercise must be within the limits and in the manner so conferred.

Hughes v. Ewing, 93 Cal., 414.

72. The authority of the Supervisors to levy a tax in a school district for the erection of a school-house is not only limited to the amount voted by the district, but is to be levied only upon the property within the district voting the same.

Hughes v. Ewing, 93 Cal., 414.

73. When the electors of a school district have voted to build a school-house, but, before the levying of the tax therefor by the Supervisors, the boundaries of the district have been changed, the territory transferred from the limits of the district is not liable for the tax so levied; though the rule would be otherwise if the tax had been levied before the change in the boundaries.

Hughes v. Ewing, 93 Cal., 414.

74. The word "district," as used in Section 1837 of the Political Code, providing that if the electors of a school district vote to build a school-house, the Trustees are to certify this fact to the Board of Supervisors, who, when levying the county taxes, must levy a tax sufficient to raise the amount voted "upon all the taxable property in the district voting such tax," is not the equivalent of "territory within the district," but is a synonym for the "corporation" voting the tax; and the tax to be levied by the Supervisors is limited to the property within the boundaries of such corporation at the time of the levy.

Hughes v. Ewing, 93 Cal., 413.

75. By a change in the boundaries of a school district, the public corporation or district does not lose its identity or name, or cease to be the same legal entity that it was before.

Hughes v. Ewing, 93 Cal., 414.

76. The power of taxation is authorized for the benefit of the taxpayers, and taxation cannot be justly compelled for an object or for the benefit of a class in which the taxpayer is directly excluded from participating.

Hughes v. Ewing, 93 Cal., 414.

77. The City of San Diego as a municipal corporation has no interest in moneys paid into the county treasury to the credit of the school district of the city of San Diego, which is a distinct corporation, whose rights and obligations are governed by the Political Code, and not by the city charter; and the city is not entitled to an injunction to prevent the County Treasurer from paying a warrant drawn upon him in payment of the salary of the Superintendent of Schools in the city of San Diego.

City of San Diego v. Dauer, 97 Cal., 442.

78. The power to fix the salary of the Superintendent of Schools in the city of San Diego is vested by Section 1793 of the Political Code in the Board of Education of the city, which, as a general law regulating the public school system, prevails over a provision of the city charter directing the Common Council to fix such salary.

City of San Diego v. Dauer, 97 Cal., 442.

79. Where the records of the Board of Education of a city recite that the Board "went into executive session for the election of teachers for the ensuing year," and thereupon certain teachers were declared elected, a teacher so elected, who begins teaching under such authorization, and continues holding after the expiration of the year for two years more without any new employment, is not elected for life, subject to removal only for cause, but may be dismissed at any time after the expiration of the year.

Marion v. Bd. of Ed. of Oakland, 97 Cal., 606.

80. The ignorance of a teacher as to the term of her employment being fixed for one year only, and her honest supposition that she held a life position, cannot avail her to prevent a dismissal by the Board of Education, or to compel payment of salary after such dismissal.

Marion v. Bd. of Ed. of Oakland, 97 Cal., 606.

81. If it be conceded that the Board of Education had no power to elect a teacher for a year, an election for a year cannot constitute an election for life, but a void election, and she would hold the position at the mere pleasure of the Board, subject to be discharged at any time.

Marion v. Bd. of Ed. of Oakland, 97 Cal., 606.

82. The provisions of Article IX of the Constitution, making education and the management and control of the public schools a matter of State supervision, and directing the Legislature to provide a "system of common schools," require the adoption of one system, which shall be applicable to all the common schools.

Kennedy v. Miller, 97 Cal., 429.

83. The legislative declaration, in Section 1576 of the Political Code, that every incorporated city is a school district, though it makes each school district a public corporation, does not import into the organization any of the provisions of the city charter, or limit the powers and functions which, as a school district, it has by virtue of the Political Code.

Kennedy v. Miller, 97 Cal., 429.

84. All city charters are limited by the operation of general laws.

Kennedy v. Miller, 97 Cal., 429.

85. The powers and duties of Boards of Education in cities are the same as those of Boards of Trustees in other school districts, and cannot trench upon the system that the Legislature has provided for the entire State.

Kennedy v. Miller, 97 Cal., 429.

86. The city of San Diego is a corporation distinct from the corporation known as the school district of the city of San Diego, and the rights and obligations of the school district corporation are to be determined by the provisions of the Political Code, and not by those of the charter of the city of San Diego; and a provision of its charter, that all moneys belonging to the school fund of the city shall be deposited with the City Treasurer, does not supersede the requirements of the Political Code that all moneys pertaining to the public school fund shall be paid into the county treasury.

Kennedy v. Miller, 97 Cal., 429.

# OPINIONS OF ATTORNEY-GENERALS.

Section 1227 of the Political Code, approved March 30, 1878, provides that no person shall be allowed to vote, whose name is not on the register in use at the precinct where the vote is offered. This section repealed the law, previously in force, allowing persons to vote upon certificates of registration, and hence, no person is now entitled to vote, unless his name appears upon the printed register in use at the precinct where the vote is offered.

A. L. Hart, Attorney-General, 1882.

By Section 9, of Article II, of the Constitution, the compensation of any city, county, town, or municipal officer cannot be increased after his election, or during his term of office.

Attorney-General A. L. Hart, December, 1882.

County Superintendents are county officers (Constitution, Article IX, Section 3). The compensation of county officers cannot be increased after their election, or during their term of office (Constitution, Article XI, Section 9).

Attorney-General Marshall, January, 1883.

An allowance made by the Board of Supervisors for the reasonable traveling expenses of a County Superintendent in visiting the schools of his county, as required by law, is not a compensation for the discharge of his *duties*, but for traveling expenses *incurred* in the discharge of his duties, the payment of which is provided for in Section 1552 of the Political Code. This is not the "additional compensation for services rendered" mentioned and prohibited by Section 17 of the Act of 1874, and, therefore, in my opinion, may be allowed by the Board of Supervisors.

Attorney-General Marshall, February, 1883.

It is the practice in the State Controller's office, and also that of the Auditors of the various counties, to allow

the outgoing officers pay up to the last day of their incumbency of the office, and inclusive of said last day, under my advice. The incoming officer receives salary from the date of taking possession only.

Attorney-General Marshall, February, 1883.

The Board of Supervisors must estimate and allow reasonable traveling expenses, in addition to the salary provided in the Political Code, Section 1552, for County Superintendents.

Attorney-General Marshall, May, 1883.

Section 1560 of the Political Code requires that in every county having twenty school districts a Teachers' Institute must be held at least once a year. In counties where the number of districts is less than twenty the matter of holding Teachers' Institutes is discretionary with the County Superintendent. I, therefore, think there would be no objection to two or more counties of the latter class uniting in a Joint County Institute; but am of the opinion that those of the former, or those containing twenty school districts, would, if united, be obliged to hold an annual Teachers' Institute in each county. This condition being complied with, however, I see no objection to their uniting.

Attorney-General Marshall, May, 1883.

The Political Code, Section 1597, requires that the polls shall be open not less than four hours on the day of election, and an election in violation of this provision would certainly be illegal.

Attorney-General Marshall, June, 1883.

Concerning the right of a County Superintendent to require the Trustees of a district, in which an eight months' school has been maintained, to close the school and apply the remaining funds to payment of outstanding debts and the erection of certain improvements on the grounds of said school, I have to say that, in my opinion, Section 1546, together with Section 1621, of the Political Code clearly gives the County Superintendent this right, limiting the cost of such improvements to fifty dollars.

Attorney-General Marshall, June, 1883.

As to the right of the County Superintendent of Alameda County to receive a salary as member of the County Board of Education, I have to say that the Act of 1873-

74, page 185, of the Statutes of 1873–74, clearly prohibits said County Superintendent from receiving a salary as a member of the County Board of Education, since his position as Secretary of said Board is an *ex officio* office. I cannot see that the Act of 1873–74 is in conflict with the new Constitution, and I do not know of any subsequent statute by which it is repealed; hence I am forced to the conclusion that said Act of 1873–74 is still in force, and that under it no salary can be received by the County Superintendent of Alameda County in any *ex officio* office.

Attorney-General Marshall, June, 1883.

Subdivision 15, of Section 1617, of the Political Code, is neither inoperative nor void, but in full force and effect. The Trustees should consult before the entrance of the pupils. This is not a matter of law, but one of business. Neither district can claim moneys from the other for children taught before such consultation and agreement. The Superintendent's decision should provide for carrying the apportionment with it. The amount apportioned per child goes with the children to the district. [This is not now the case. J. W. A.]

Attorney-General Marshall, September, 1883.

The payment by the county of the necessary traveling expenses of the County Superintendent is in no sense a part of his *compensation* as School Superintendent, but is merely a reimbursement for actual outlays necessary in the discharge of his duties. Section 1552 of the Political Code gives the Board of Supervisors the power to make the allowance, and I can discover nothing in the law which destroys the force of the section, or on which the adverse opinion of a District Attorney can be founded.

Attorney-General Marshall, September, 1883.

There is no objection to a party occupying the two offices of District Attorney and member of the County Board of Education. There is no provision of law, either in the Codes or Constitution, prohibiting the holding of more than one county office by the same person in this State.

Attorney-General Marshall, January, 1885.

Reasonable hotel bills, actually paid out by the County Superintendents, are included in the words "actual traveling expenses."

Attorney-General Johnson, January, 1887.

City Boards of Examination have not the power to examine teachers and issue certificates. Under the Perry amendment, that power is lodged entirely with the County Superintendents and County Boards of Education, whose jurisdiction in this matter is coextensive with their respective counties. But in the event that the County Board of Education of any county approve and ratify the action of such City Board of Examination in examining teachers and granting teachers' certificates within the jurisdiction of such county, the action of such City Board is thus vitalized and becomes the action of the County Superintendent and County Board, the latter thus controlling the whole subject matter.

Attorney-General Johnson, January, 1887.

The Board of Supervisors can allow Superintendents their reasonable traveling expenses (Section 1552 of the Political Code). Although Section 211 of the "County Government Bill" says, "the salaries and fees provided in this Act shall be in full compensation for all services rendered," etc., yet I think the two sections must be construed together, and that the payment of the Superintendents' traveling expenses is not a compensation for services.

Attorney-General Johnson, February, 1887.

A School District Clerk cannot act and receive compensation as Census Marshal. Section 1876 of the Political Code says "no School Trustee, or member of a Board of Education, must be interested in any contract made by the Board of which he is a member, and any contract made in violation of this provision is *void*.

Attorney-General Johnson, February, 1887.

Sections 1858 and 1861 of the Political Code provide that the whole State School Fund, without abatement, must be apportioned and used in the manner therein indicated; but, in my opinion, the Board of Supervisors can allow the County Treasurer for his necessary expense, incident to receiving the State School money, to be paid out of the County General Fund.

Attorney-General Johnson, February, 1887.

Under Section 1621 of the Political Code, no school moneys received from the State or county apportionment

can be diverted until, at least, an eight months' school has been maintained ; but if, at the end of the year when such an eight months' school has been maintained, there is an unexpended balance in the school district's apportionment of the County Fund, it may be used to equalize any overdraft on the State School Fund and Library Fund, which should have been used only for salaries of teachers and for books. I find no law, however, that, when the County Fund has been overdrawn, an equalization may be had by drawing for that purpose from the State School or Library Funds. In all such cases the County Superintendent should have drawn no such requisition; nor should the Auditor have drawn any such warrant; nor should the Treasurer have made such payment. The State School Fund and the Library Fund should have been kept intact from misappropriation.

Attorney-General Johnson, March, 1887.

The Board of Supervisors of a county can allow the Superintendent of Schools his reasonable traveling expenses. The payment of traveling expenses is not a compensation for service; it is simply a reimbursement for moneys paid out.

Attorney-General Johnson, April, 1887.

Under Section 1552, the County Superintendent of Schools should be allowed, in addition to his salary, a sum for postage and expressage, equal to two dollars for each school district. This is not compensation, but merely reimbursement for expenditures.

Attorney-General Johnson, April, 1887.

It is clear that, when outside territory has been annexed to an incorporated town or city for school purposes, every qualified elector in the school district has a right to vote on any question appertaining to the schools. (See Section 1598 of the Political Code.) It is equally clear that taxes are to be levied on all the property within the school district that is taxable under the Constitution. Under Section 1880 of the Political Code, Fresno City School District may call an election, and submit *to the electors of the district* the question as to the increase of bonds, and every elector has the right to vote.

Attorney-General Johnson, April, 1887.

Boards of Supervisors *may allow* traveling expenses for visiting schools by County Superintendents. In other words, they have such power, unless in the class that the particular county belongs to the law provides that the compensation includes such expenses.

Attorney-General Johnson, April, 1887.

Under the school law, a district gets apportionment of the State and county school moneys according to the number of school census children between the ages of five and seventeen years in the school district. There is so much money apportioned to each district for every teacher assigned to it—a teacher being assigned for so many census children; but I do not understand that a district is compelled to have two teachers simply because it is entitled to them, or they are assigned to it.

Attorney-General Johnson, April, 1887.

As to County Superintendents, Boards of Supervisors may allow them for reasonable traveling expenses, unless it is provided by law that their salaries shall include such traveling expenses. They are allowed for postage and expressage a sum equal to two dollars for every school district. (See Section 1552 of the Political Code.)

Attorney-General Johnson, April, 1887.

The Constitution, Section 6, Article IX, discloses that the entire revenue derived from the State School Fund and the State School Tax shall be applied exclusively to the support of primary and grammar schools. Under the Constitution, these sources of revenue must be kept intact for the exclusive support of primary and grammar grades.

Attorney-General Johnson, May, 1887.

County Superintendents have power to appoint Trustees in newly formed districts immediately after the districts have been created; but the Trustees of the old district who reside in the new district are Trustees of the latter. (See Political Code, Section 1543, Subdivision 12, and Section 1615.) Such Trustees would hold office until the first day of July after their appointment. (See Political Code, Section 1593.)

Attorney-General Johnson, May, 1887.

The qualification of a member of the Board of Education is the taking of the oath of office provided for in the Con-

stitution, Article XX, Section 3, and in Section 904 of the Political Code.

If appointees of the Board meet and are recognized as members thereof, but do not qualify, their acts would probably be legal so far as the rights of third parties are concerned. So far as concerns the rights of the members of the Board, the oath must be taken within the specified time, otherwise the office becomes vacant.

Attorney-General Johnson, May, 1887.

A County Auditor may safely draw a warrant in favor of the Secretary of the Teachers' Institute in payment for services as such Secretary. Such services may legitimately come under the head of "actual expenses." The position of Secretary must often be onerous, and it is not every one who can perform the duties. I know of no authority by which any one can be compelled to act as Secretary without pay. If the sum named in the requisition is a reasonable sum, I think it is proper for the Auditor to draw his warrant.

Attorney-General Johnson, May, 1887.

Section 1616 of the Political Code provides: "Boards of Education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided." Section 1617 of the Political Code, in enumerating the powers and duties of Trustees of school districts and of Boards of Education in cities, says, in the seventh subdivision: "To employ the teachers, and, excepting in incorporated cities having Boards of Education, immediately notify the Superintendent of Schools, in writing, of such employment, naming the grade of certificate held by the teachers employed; also to employ janitors and other employes of schools; to fix and order paid their compensation, unless the same be otherwise prescribed by law; *provided*, that no Board of Trustees shall enter into any contract with such employés to extend beyond the thirtieth day of June next ensuing."

Although in the above provision there is no mention of the Board of Education, yet I think the words, "Board of Trustees," were intended to include the Board of Education, except where, under the provisions of the law governing a city, the powers and duties of the Board of Educa-

tion were differently prescribed. Besides, Section 1619 of the Political Code says: "The Boards of Trustees and City Boards of Education must maintain all the schools established by them for an equal length of time during the year, and as far as practicable with equal rights and privileges."

Again, Section 1623 contains this provision: "*provided*, that the contracts mentioned in this section are not in excess of the school moneys accruing to the district for the school year for which the contracts were made, otherwise the district shall not be held liable." Here, too, the section speaks of Boards of Trustees, but I think it has reference also to a City Board of Education, where the laws governing the city are not different. The law passed in 1887, which took effect immediately, makes the election of School Trustees on the first Saturday of June, but the Trustees elected hold from the first day of July next succeeding their election. But the election in Santa Rosa does not occur until the *last* Saturday in June; I presume it must be by virtue of its charter, or the amendments thereto. I should conclude, therefore, unless there is something in the said Act of Incorporation, or the amendment, to the contrary, that your Board of Education cannot elect teachers prior to the first day of July next; in other words, the contract cannot be made to extend beyond that time.

In the case you speak of, where the election of teachers was held in the early part of June, the Act of Incorporation may have contained provisions justifying that course; and so, if the Act incorporating Santa Rosa, or if the amendment provided differently, then this must govern, for the law expressly says, Section 1616 of the Political Code, that the powers and duties of the Board of Education are as prescribed in such laws, except as otherwise provided. In other words, if there is a different provision in the Act of Incorporation or the amendment, in respect to the time of employment of teachers and the length of time they may be employed, I would not regard such a provision affected by the fact that School Trustees cannot elect their teachers for a time beyond the 30th day of June then ensuing.

Attorney-General Johnson, May, 1887.

There being a vacancy in the office of School Trustee to be filled for one year, and another School Trustee to be elected for three years, the ballots to fill the vacancy should be, "For the unexpired term." The ballots for the other Trustee need not designate the term as the law fixes it.

Attorney-General Johnson, May, 1887.

The Census Marshal is a civil officer under Section 841 of the Political Code.

Attorney-General Johnson, June, 1887.

Any woman over the age of twenty-one years, who is a citizen of the United States and of this State, is eligible as a School Census Marshal. See Act approved March 10th, 1874.

Attorney-General Johnson, June, 1887.

When a new district is formed, and the Trustees appointed fail to hold an election, the said Trustees hold over until their successors have qualified. Section 879 of the Political Code.

It is the duty of the County Superintendent of Schools to fill all vacancies created by failure to elect or otherwise, to hold until the next annual election. Section 1543 of the Political Code, subdivision 13th.

The Board of Supervisors have power to divide school districts as convenience requires. See County Government Act, Section 25, subdivision 2. If a fraud occurs, the Supervisors can undo what they have done.

Attorney-General Johnson, June, 1887.

Where there are 140 census children—enough to entitle the district to two teachers—and a fraction more, but less than twenty such children, under Section 1858 of the Political Code there is to be apportioned to the district $20 for every census child in such fraction.

Attorney-General Johnson, June, 1887.

As to whether a man convicted of murder and subsequently pardoned is disqualified from holding the office of School Trustee, and from being an elector, I have to say, that we have no decision in this State on the subject, definitely deciding the matter under the present Constitution and laws; but the line of reasoning of the Court in the

case of The People v. Brown, 43 Cal., 439, inclines me to answer the question in the (affirmative?) negative.

Attorney-General Johnson, June, 1887.

The Deputy Superintendent of Public Schools of a county can vote at a meeting of the Board of Education in the absence of the Superintendent.

Attorney-General Johnson, June, 1887.

No section of the law seems to require that the *names* of children in an orphan asylum should be given to the Census Marshal. Also, the children in such institutions are not to be included in the report of the Census Marshal, unless the parents or guardians of such children reside in the district. (See Section 1638 of the Political Code.) The Marshal should shape his inquiry accordingly for the purposes of his report, only as to the names of parents or guardians of such children, the names of the children themselves not being required.

Attorney-General Johnson, June, 1887.

In reference to the right of a Deputy School Superintendent to vote in the absence of the County Superintendent, at a meeting of the County Board of Education, I have to say that I am of opinion that the deputy may act; but the other members of the Board cannot be represented by deputies. It must be remembered that the law gives the County Superintendent a deputy, but does not give deputies to other members of the Board of Education. I cannot agree to the doctrine that the duties which the Deputy County Superintendents are permitted to perform under the law are limited to the duties devolving upon County Superintendents, *as such*, and not otherwise. Section 1768 of the Political Code says who shall constitute the County Board of Education, and that the County Superintendent of Schools shall be one. This is as much one of his duties as any other provision of the school law. He is the head of the schools of the county, and why should he not be a member of the County Board of Education? If the Board of Supervisors neglect to appoint a Board of Education, he may appoint them, under the section, and this is as much one of his duties as any other requirement of the law.

Section 512 of the Political Code says: "The duties of the Superintendent of Public Instruction are prescribed in

Title III, Part 3, of this Code." There is where we find these provisions as to County Boards of Education. It is the duty of the County Superintendent, in the express language of the law, to keep a record of the proceedings of the County Board of Education (Subdivision 11 of Section 1543 of the Political Code). It is established, therefore, as I take it, that, being a member of the County Board, and keeping a record of its proceedings, are duties required under the law. The language used is "shall," which certainly is not to be construed in a permissive sense.

Now, Section 865 of the Political Code says: "In all cases not otherwise provided for, each deputy possesses the powers and may perform *the duties* attaching by law to the office of the principal."

Section 4112 of the Political Code also is to the effect that a county officer may appoint as many deputies as may be necessary for the faithful and prompt discharge of the duties of his office. The decision heretofore rendered must stand as the decision of this office.

(See, also, Touchard v. Crow, 20 Cal., 156, and Muller v. Boggs, 25 Cal., 181.)

Attorney-General Johnson, June, 1887.

I do not think that the additional studies now required to be taught should affect the granting of certificates to holders of life diplomas. The diplomas recommend that their holders receive the highest certificate granted by the local Board of Examination.

Attorney-General Johnson, June, 1887.

The decision of this office is that a Deputy County Superintendent, in the absence of the County Superintendent, has a right to vote as a member of the County Board of Education, and also has the right to act as Secretary of said Board.

Attorney-General Johnson, June, 1887.

In case of an improper contract between a Board of Trustees and a teacher, by which she is to refund to them a part of the money she draws, which they do not account for, the matter should be laid before the District Attorney of the county.

Attorney-General Johnson, July, 1887.

I have held that the Board of Supervisors can allow the County Superintendent reasonable traveling expenses in the absence of a special provision for traveling expenses in the County Government Bill. Although Section 211 of that Bill says, "The salaries and fees provided in this Act shall be in full compensation for all services rendered," yet this language must be construed in connection with Section 1552 of the Political Code, and it must be remembered that an allowance for traveling expenses is not by way of compensation for services rendered, but is rather a reimbursement for moneys paid out.

Attorney-General Johnson, July, 1887.

I do not think the Superintendent of Schools can receive a salary as member of the County Board of Education. He is a member of said Board by virtue of his office, and Section 211 of the County Government Act applies.

Attorney-General Johnson, August, 1887.

School Trustees hold office until their successors are appointed. (See Section 879 of the Political Code.)

Attorney-General Johnson, August, 1887.

Trustees can use county school money for the purchase of desks after an eight months' school has been kept. (See Section 1621 of the Political Code.)

Attorney-General Johnson, August, 1887.

I do not think a man who is not registered in the county, but who is otherwise legally qualified, can serve as a School Trustee if elected or appointed. He must be an elector. (See Political Code, Section 58; also Section 1600.)

Attorney-General Johnson, August, 1887.

A school district voted a tax of $4,000 to build a school-house. A tax was levied which raised between $6,000 and $6,500. In my opinion the surplus should be placed in the School Fund to the credit of the district. (See an Act approved March 13th, 1883, Statutes of 1883, p. 298.)

Attorney-General Johnson, August, 1887.

Under Section 1617 of the Political Code, subdivision 20, School Trustees should submit to a district meeting the location of a school-house after bonds have been voted with which to build, etc., if the question of location is undetermined. I think the calling of the meeting is mandatory.

Attorney-General Johnson, August, 1887.

The Superintendent's salary is paid out of the County General Fund, and it follows from Section 1770, that the members of the Board of Education are paid out of the same fund.

Attorney-General Johnson, August, 1887.

Prior to 1880 there was a section of the Political Code (1754) which read: "The holders of diplomas are eligible to teach in any public school, except in High Schools in which languages other than the English are required to be taught by such teachers." Holders of such diplomas should have the same rights now, that is, the diploma should entitle them to teach in any public school in this State, excepting in High Schools where they would be required to teach languages other than the English. If, under the old law, certificates were granted to holders of life diplomas, such certificates must have been granted by the State Board of Examination under Section 1750 of the Political Code as it then stood. It would seem that the life diploma was a certificate of the highest character, and that the holder thereof could teach without any additional certificate. I would conclude that while the County Board of Education may, under Section 1775 of the Political Code, grant a certificate to the holder of such life diploma, that the certificate is not necessary to entitle the holder of the diploma to teach in the public schools, and that no examination can be required of the holder of such a diploma.

Attorney-General Johnson, August, 1887.

I have heretofore given it as my opinion that teachers holding life diplomas, issued prior to 1880, cannot be required to hold county certificates, and that the diplomas have the same force now as when issued.

Attorney-General Johnson, August, 1887.

Under subdivision 8, Section 1543, of the Political Code, and Section 1775, the County Superintendent must act upon the order of the County Board of Education, and it is not for him to review the action of the Board in the matter of granting county certificates or temporary certificates. The County Board are the exclusive judges when they shall issue.

Attorney-General Johnson, October, 1887.

I think the law restricts us in investing the State school moneys to the United States, State, and county bonds.

Attorney-General Johnson, October, 1887.

Section 1770 of the Political Code makes it mandatory on County Boards of Education to meet semi-annually, at such times as they may determine.

Attorney-General Johnson, October, 1887.

The Board of Supervisors have the power to allow the County Superintendent of Schools his reasonable traveling expenses while in the discharge of his official duties; and this as a reimbursement for moneys paid out, and not as extra compensation. (See Political Code, Section 1552.)

Attorney-General Johnson, November, 1887.

Section 1552 of the Political Code, as far as traveling expenses of County Superintendents are concerned, is in force. In my judgment, the allowance of such expenses is not giving increased compensation; it is simply reimbursing for moneys paid out. As far as concerns traveling expenses of the County Superintendents, I do not regard Section 1552 of the Political Code as inconsistent with the County Government Act.

Attorney-General Johnson, December, 1887.

The Board of Education may include supplementary readers in the list of books that they adopt for school libraries, and I see nothing to prevent School Trustees from purchasing more than one set of readers for library use, if the teacher does not use the said books to supplant the text-books on reading, but simply for supplementary work, the pupils in every case being supplied with the regular contract readers; I do not think there is anything illegal in so using the supplementary readers belonging to the library of the school district.

Attorney-General Johnson, December, 1887.

I think the County Superintendent would be justified in refusing to draw a warrant for writing or drawing books furnished to the schools by the School Trustees. Ruled paper for the use of the classes in bookkeeping would probably come under the head of writing paper.

Attorney-General Johnson, December, 1887.

The Political Code does not give authority to renew certificates after they have expired.

Deputy Attorney-General W. P. Johnson, December, 1887.

The County Superintendent of Schools cannot legally draw a per diem as a member of the County Board of Education.

Attorney-General Johnson, January, 1889.

The Trustees of a district have no authority to appoint a party seventeen or eighteen years old to take the school census. The Census Marshal should be, at least, twenty-one years old at the time of his appointment.

Deputy Attorney-General W. P. Johnson, January, 1888.

In my opinion, applicants for primary certificates can not be required to pass examination in studies not mentioned in Section 1772 of the Political Code. Comparing Section 1771 of said Code, before the amendment of 1887, and the section as now amended, we find that primary certificates differ only in name from second grade certificates. The primary certificate takes the place of the second grade certificate, is valid for the same length of time, and authorizes the holder to teach in the same kind of school. The new studies are to be taught in the several grades where they are required. This was true of music, drawing, and bookkeeping before the section was amended; but applicants for second grade certificates could not before have been required to pass examination in these studies. I can see no reason for not following the provisions of Section 1772 as long as said section remains unrepealed.

Attorney-General Johnson, February, 1888.

I think that Section 211 of the County Government Act prevents the County Superintendent from receiving anything for his services as a member of the County Board of Education. I think, under Section 1552 of the Political Code, the Board of Supervisors may allow him his reasonable traveling expenses, and should allow him a sum for postage and expressage equal to one dollar [now two dollars by amendment of 1891] for each school district. I think that Sections 3894 and 3895 of the Political Code are repealed by the County Government Act.

Attorney-General Johnson, February, 1888.

The County Superintendent is not entitled to extra compensation for performing the duties mentioned in Section 1551 of the Political Code.

Attorney-General Johnson, March, 1888.

It is the duty of the County Superintendent to ascertain whether in any school district the average attendance for three months is five pupils or less; also, if such average attendance is only five or less, that officer should not draw his requisition in payment of the teacher beyond said three months, as the district thereupon lapses by virtue of the law, and the money belonging to the same should be apportioned among the other districts.*

Attorney-General Johnson, April, 1888.

If in a school district there was an average attendance for three months of only five or less, the district would lapse, and the teacher would not be legally entitled to pay after the expiration of that time. The Board of Supervisors should attach the territory of the lapsed district to one or more adjoining districts, and in those districts the census should be taken.*

Attorney-General Johnson, April, 1888.

In case of the death of a County Superintendent of Schools, the appointee to fill the vacancy occasioned thereby would hold for the unexpired term, and not simply till the next general election. (See Section 25, Subdivision 21, of the County Government Act.)

Attorney-General Johnson, May, 1888.

In my opinion, school districts can be compelled to pay for grading streets in front of the school property when such street grading is a proper charge on other property similarly situated. The fact that the Trustees contracted to purchase the lot before the notice of intention to grade the street was published would make no difference. While school property is exempt from municipal taxes, it is not exempt from street assessments.

Attorney-General Johnson, June, 1888.

Subdivision 1636 of the Political Code seems to contemplate the retaking of the entire census of the district if the Superintendent of Schools has reason to believe that

* A district does not lapse under the law as it is now, unless the average for the whole year is five pupils or less.—J. W. A.

a correct report has not been returned. If, therefore, the Superintendent of Schools of San Francisco has reason to believe that the late census there is fraudulent, or incorrect, he should appoint a Census Marshal and have the entire census retaken.

Attorney-General Johnson, June, 1888.

It is necessary for an appointee on the Board of Education to qualify by taking the oath of office before he is legally entitled to his seat. Section 904 of the Political Code says: "Before any officer enters on the duties of his office, he must take and subscribe the following oath," etc. (See also Hall v. Superintendent, 63 Cal., 176.) And every officer must qualify, as stated in Section 907 of the Political Code, within the period of ten days.

Attorney-General Johnson, June, 1888.

When an appointee on the Board of Education fails to comply with some preceding requirement, as to take an oath, but still acts in the office to which he is appointed, he is a *de facto* officer, and holds until his successor has qualified.

Attorney-General Johnson, June, 1888.

Under an Act of the Legislature, approved March 12th, 1874, "Women over the age of twenty-one years, who are citizens of the United States and of this State, shall be eligible to all educational offices within this State, except those from which they are excluded by the Constitution." I regard the office of Census Marshal as an educational office, and I know of no constitutional prohibition against women holding such an office.

Attorney-General Johnson, July, 1888.

The Board of Supervisors and County Superintendent have the right to decide whether a new district is necessary or proper.

Attorney-General Johnson, July, 1888.

It is necessary for an appointee on a Board of Education of a county to qualify by taking an oath of office before he is legally entitled to his seat. (See Section 904 of the Political Code; also, Hall v. Superior Court, 63 Cal., 176.) If the appointee has failed to subscribe to and file the oath of office, as required by Section 907 of the Political Code, the office becomes vacant; and for him to

hold the office legally it will be necessary for him to be reappointed by the Board of Supervisors. (See Section 1768 of the Political Code.)

Attorney-General Johnson, August, 1888.

Foreigners from Japan have a legal right to attend the public school. (See Political Code, Sections 1858 and 1662; also the case of Tape v. Hurley, 66 Cal., 473.)

Attorney-General Johnson, August, 1888.

In case a school district has issued bonds for building a school-house, and subsequently a new district is formed from a part of said district, the tax to be levied under the law is to be upon the taxable property of the district, and if at the time of the levy, a part of the old district is in a new district, such property in the new district is not liable to the tax.

Attorney-General Johnson, November, 1888.

A School Trustee took up his residence outside of the district. The doing so would vacate his office. But he and another Trustee employed a teacher, and the teacher left after teaching one month. Although the office was vacant, still, as to innocent third persons, the acts of the Trustee who had removed would be valid until his successor qualifies. A warrant for the salary of the teacher may be compelled to be drawn.

Attorney-General Johnson, December, 1888.

When a school certificate is granted by the County Board of Education, or by a majority thereof, it is the duty of the County Superintendent to affix the seal and his signature thereto; if he does not, he may be compelled to do it by mandamus.

Attorney-General Johnson, December, 1888.

Bonded school districts may be divided so as to create a new school district.

Attorney-General Johnson, December, 1888.

The State Board of Education is not authorized to adopt and enforce a rule that when School Trustees fail to provide a janitor, the pupils of the school shall in turn do the sweeping of the school-house. One of the powers and duties of the Board of Trustees is "to employ teachers, janitors, and employes of schools," etc. One of the powers and duties of the State Board of Education is "to adopt

rules and regulations not inconsistent with the laws of the State for its own government, and for the government of the public schools, and district school libraries." It is, therefore, inconsistent with the laws of the State for the Board to make a rule which dispenses with one of the duties of School Trustees, as provided by law, which is "to employ a janitor." Mandamus would lie against a school district to compel the Trustees to employ a janitor for this purpose.

Attorney-General Johnson, December, 1888.

The simple fact that the Tax Collector did not publish as delinquent the railroad's portion of the tax which was levied for building a school-house does not absolve the railroad; but the taxes being due, and not collected at the proper time, they may be collected by such means as may be prescribed by law. Under the Act of April 23d, 1880 (see page 604, Political Code), I do not see why the District Attorney may not bring suit. But before doing so he had better see if the company will not pay before any costs are incurred. If the suit is brought, it would be better to do so within three years, as the Statute of Limitations might be pleaded. (See City and County of San Francisco v. Jones, 2d West Coast Reporter, p. 772.)

Attorney-General Johnson, December, 1888.

The Board of Supervisors have the power to allow a Superintendent his reasonable traveling expenses. I do not consider so much of Section 1552 of the Political Code as relates to traveling expenses repealed by the County Government Act.

Attorney-General Johnson, January, 1889.

Boards of Supervisors are authorized to allow actual traveling expenses to the County Superintendent while visiting schools, such an allowance being in effect only a reimbursement, and not a compensation for services rendered.

Attorney-General Johnson, February, 1889.

The County Superintendent is entitled to his actual traveling expenses, incurred in attending the biennial meeting of County Superintendents.

Attorney-General Johnson, February, 1889.

School bonds in the hands of private persons are taxable. (See Constitution of Cal., Art. XIII, Section 1; Section 3607 of the Political Code, and People v. Home Ins. Co., 29 Cal., 533.)

Attorney-General Johnson, February, 1889.

I think County Superintendents should be allowed their expenses while attending the convention of County Superintendents, as provided in Section 1532, subdivision 14 of the Political Code, such compensation not being extra compensation, but merely by way of reimbursement for moneys paid out.

Attorney-General Johnson, February, 1889.

The Trustees may use the Special School Fund for the payment of the claims for furniture and apparatus.

Attorney-General Johnson, February, 1889.

The Trustees are liable, as such, in the name of the district, for any judgment obtained by any teacher for salary contracted by them to be paid to him; but they are not personally liable to him for such payment. (Section 1638 of the Political Code.

Attorney-General Johnson, February, 1889.

The Trustees of a district can legally use the balance remaining in the County Fund after an eight months' school has been maintained, for the purpose of building a new school-house.

Attorney-General Johnson, April, 1889.

The appointment of a minor as a Census Marshal would not be valid. Sec. 841 of the Political Code says: "No person is capable of holding a civil office who at the time of his election or appointment is not of the age of twenty-one years and a citizen of this State."

Attorney-General Johnson, April, 1889.

Trustees are not forbidden to increase a teacher's salary when a contract has been made.

Attorney-General Johnson, May, 1889.

The transportation of the State School Fund from the State treasury to the county treasury should be paid out of the County General Fund. A Superintendent has no authority to draw a warrant upon the School Fund for that purpose.

Attorney-General Johnson, May, 1889.

The Board of Supervisors *can* allow the County Superintendent reasonable traveling expenses. Section 211 of the County Government Bill and Section 1552 of the Political Code are to be construed together, the traveling expenses allowance being not by way of compensation, but simply a re-imbursement.

Attorney-General Johnson, May, 1889.

The County Superintendent is entitled to his actual traveling expenses in attending biennial conventions of County Superintendents, as provided in Section 1532, subdivision 14, of the Political Code.

Attorney-General Johnson, May, 1889.

There is no law which disqualifies a Principal of a public school from being eligible to the office of Census Marshal.

Attorney-General Johnson, May, 1889.

Teachers' orders, requisitions, or warrants are assignable, but they are not negotiable proper in the sense of the law merchant, so that when held by a *bona fide* purchaser, evidence of their invalidity or defenses against the orignal payee would be excluded. They are payable out of a particular fund, which destroys their negotiability; but they can be assigned, and the assignment will enable the assignee rightfully to draw the money. If the County Superintendent should draw a requisition in favor of the assignee, he should state the teacher's name and that of the school district.

Attorney-General Johnson, May, 1889.

Under Section 1597 of the Political Code, the polls at the election of School Trustees should be kept open four hours. If the notices specified that the polls would be open between the hours of one and four o'clock, the time would be only three hours. The voters, therefore, who voted between four and five o'clock, properly voted, and the election of Trustees cannot be set aside on this account. The notice would be good as specifying the initial hour for the commencement of voting, and the law supplies the terminal hour, which would be five o'clock.

Attorney-General Johnson, July, 1889.

The Trustees of the normal schools are not authorized to send the teachers to different portions of the State to

hold examinations for the admission of students. Section 1489, subdivision 8, of the Political Code does not seem to be broad enough to authorize the pay of the teachers for such work.

Attorney-General Johnson, July, 1889.

The Trustees of a certain district desire to use money remaining in the County Fund after a nine months' school has been maintained, for building an addition to the school-house. This can be done. (See Section 1621 of the Political Code.

Attorney-General Johnson, July, 1889.

In order to be a member of the County Board of Education it is necessary that the person should be an elector, a citizen of the State, and of the age of twenty-one years or upwards. (See Section 56 of the County Government Act.)

Attorney-General Johnson, August, 1889.

When two or more districts, lying contiguous, are united to constitute but one district, under Section 1577 of the Political Code, as last amended, the district so formed constitutes a new district under subdivision 13, Section 1543, of the Political Code, as last amended; and it is the duty of the County Superintendent to appoint Trustees for the same, who hold office until July first next succeeding their appointment. Such new district, however, cannot be formed at any other time than between July 1st and May 10th. (See Section 1577.)

Attorney-General Johnson, August, 1889.

The incorporation of a city of the sixth class creates a separate school district. (Section 1576 of the Political Code.)

Attorney-General Johnson, August, 1889.

When two districts are united to form one district, the funds of both districts are also united; and they become subject to the order of the Trustees only of the district formed by the union.

Attorney-General Johnson, August, 1889.

The Board of Supervisors of a county may allow the reasonable traveling expenses of a County Superintendent under Section 1552 of the Political Code, which is not repealed, except by implication, in this respect, and implied

repeals are not favored. Traveling expenses are more in the nature of reimbursement than compensation.

Attorney-General Johnson, August, 1889.

To allow County Superintendents five dollars a day during the times of the examination of teachers would be to increase their salaries. The duties devolved are not duties foreign to the office, but seem to grow legitimately out of it.

Attorney-General Johnson, August, 1889.

I have to say that the recent amendment to Section 1552 of the Political Code makes mandatory what was before permissive only; but in my opinion the salary of the Superintendent is not increased by the reimbursement therein provided, as the Board of Supervisors, before the amendment, could have allowed the expenses.

Attorney-General Johnson, August, 1889.

I hold that a member of the Board of Education must possess the qualifications mentioned in Section 56 of the County Government Act. I regard a member of said Board as a county officer. (See Section 57 of said Act; also Section 1768 of the Political Code.)

Attorney-General Johnson, August, 1889.

If a certain text-book is in use with whose publishers the contract has expired and the County Board of Education "recommended" the use of a different book, districts following such recommendation and introducing such new book to the exclusion of the old are liable to the loss of twenty-five per cent. of the State School Fund, according to Section 1875 of the Political Code, if the text-book recommended was not legally adopted by the County Board as provided by Section 1874 of the Political Code.

Attorney-General Johnson, December, 1889.

In my opinion the Board of Supervisors have power to annex outlying territory to a city of the sixth class forming a school district, notwithstanding the fact that the outlying territory comprises the whole of the territory of an adjoining school district. (Section 1576 of the Political Code.)

Attorney-General Johnson, December, 1889.

The intention of the law is that a city shall be a separate school district.

Attorney-General Johnson, December, 1889.

Money raised by a school district by special tax under an election notice specifying the purpose of the tax to be "to repair and furnish additional school facilities," cannot be used to purchase school lots. (See Section 1617, subdivision 5, and Section 1832 of the Political Code.)

Attorney-General Johnson, January, 1890.

I am of the opinion that under the Act of February 20, 1889 (Statutes of 1889, p. 32), the necessary expenses incurred in the vaccination of school children are to be paid out of the common school moneys apportioned to the district, city or town, only in the case of those children whose parents or guardians are pecuniarily or otherwise unable to procure such vaccination.

Attorney-General Johnson, January, 1890.

I am of the opinion that in the case of a joint district, the teacher, before assuming charge, may file his or her certificate with the County Superintendent of either county.

Attorney-General Johnson, January, 1890.

According to Section 1687 of the Political Code, teachers of beginners shall rank in point of salary with teachers of first grade pupils. If there be several first grade teachers, with different salaries, it is not necessary that teachers of beginners shall receive a salary equal to the highest paid, although the Board have the right to pay such salary. It is sufficient if they receive a salary equal to that paid a teacher of first grade pupils.

Attorney-General Johnson, March, 1890.

I do not see any conflict between the fifth subdivision of Section 1858 and the second subdivision of Section 1543 of the Political Code. The fifth subdivision of Section 1858 is mandatory. In order to render the Superintendent criminally liable for not carrying out this mandate, it must have been a willful omission.

Attorney-General Johnson, March, 1890.

I find nothing in the law which can be enforced against a lady teacher who declines to sing or play at the closing exercises of a public school. In such matters outside of the prescribed curriculums of duty as laid down in the law, the Principal will have to depend upon reasonable

rules adopted beforehand by the Board of Trustees, or by the State Board of Education.

Attorney-General Johnson, March, 1890.

The City Board of Examination of San Diego has no authority, under the city charter and the present laws of California, to hold a special examination, besides the semi-annual examination required by law.

Attorney-General Johnson, April, 1890.

While I think the granting of special certificates to teach such studies as must be taught is not to be encouraged, but should be held to apply more properly to such studies as are not in the established curriculum, yet I think the power given to the City Board, whenever they think it advisable, "to grant special certificates, valid for three years, which shall entitle the holder to teach such special branches as may be required by City or County Boards of Education." The want of a school may be such as to require reading and elocution to be made special branches. Ordinarily it may be otherwise.

Attorney-General Johnson, April, 1890.

No school district can incur any indebtednees or liability exceeding in any year the income and revenue provided for it for such year, except as provided in Section 18, Article XI, of the Constitution; and persons dealing with the district in violation of this section must take their chances for payment of any such claims.

Attorney-General Johnson, April, 1890.

One of the powers and duties of Trustees is to manage and control the school property within their districts. Although it may not be commendable for a dance to be advertised and given in a school-house, even for the purpose of purchasing an organ for the school, yet I do not know of any law that is violated by such permissive action on the part of the Board of Trustees. Under the law they are to have control, and if the district is not put to any expense, and the Trustees see, either by themselves or by proxy, that the dance is conducted with proper decorum, I do not see that anything can be done in the premises. But Trustees should be careful about using school property for general purposes, or in such way as to produce inharmony in the district. (But see Sec. 1617, Subdivision 20.)

Attorney-General Johnson, April, 1890.

The Library Fund should be expended only for books and school apparatus, not furniture.

Attorney-General Johnson, May, 1890.

Trustees should not deal in respect to school property with themselves. They occupy a trust relation, and can not serve two masters—the district and themselves.

Attorney-General Johnson, May, 1890.

I do not see any necessity for examining a teacher on the branches she has already been rated upon; but she may take the additional branches required for a first grade certificate.

Attorney-General Johnson, June, 1890.

I do not know of any law making it illegal for the Trustees of a public school to permit religious services to be held in the school-house at times when the school-house is not needed for school purposes; but should the Trustees refuse to permit services to be held their decision is final, and cannot be controlled by a vote of the electors of the district.

Attorney-General Johnson, June, 1890.

It is not within the spirit of Section 1596 of the Political Code for the Trustees to appoint themselves officers of the school election; still the election would not be held illegal for that reason, if in point of fact the Trustees certified to be elected received a majority of the legal votes. There is nothing to prohibit one of the officers of such election from acting as Clerk, but it is not necessary that the Clerk be a member of the Election Board.

Attorney-General Johnson, June, 1890.

Subdivision 7 of Section 1548 authorizes the issuance of only one temporary certificate to the same person, no matter how many certificates from other counties he may have.

Attorney-General Johnson, July, 1890.

Section 1876 of the Political Code is as follows:

"No School Trustee or member of any Board of Education must be interested in any contract made by the Board of which he is a member; and any contract made in violation of this provision is void."

Attorney-General Johnson, July, 1890.

The election held on the last Saturday of June for

School Trustee is a nullity, the first Tuesday in June being the date fixed by law. There being no election the old Trustees would hold over.

Attorney-General Johnson, July, 1890.

The Secretary or Clerk of the Trustees is not entitled to compensation, under Section 1072 of the Political Code; nor do I know of any law under which he is entitled to compensation.

Attorney-General Johnson, July, 1890.

A city organizes as a fifth class city and leaves the balance of the district, forming, of course, a separate district by itself. There was a balance in the School Fund to the credit of the old district. The new city district is not entitled to any portion of this balance, Section 1582 of the Political Code having been repealed. (See Boon v. West Va., 424.)

Attorney-General Johnson, July, 1890.

While I do not think it within the spirit of the law for School Trustees to furnish supplies to their district, yet the supplies having been furnished, I think the district should pay what they are reasonably worth.

Attorney-General Johnson, August, 1890.

I do not think the Board of Supervisors can deprive the County Board of Education of their per diem for three days for the reason that it took the three days for them to prepare questions for applicants for teachers' certificates. The law says the Board of Supervisors shall allow a per diem of five dollars to each member of the Board of Education, and does not say that the questions shall be prepared beforehand, nor limit the time for such meetings.

Attorney-General Johnson, December, 1890.

Section 1563 of the Political Code does not authorize the allowance of mileage to teachers attending the Teachers' Institute. However much I may regret that the law is that way, still it must be so declared, unless the Legislature changes it.

Attorney-General Johnson, December, 1890.

The Board of Education of a city has the power to make the study of music and industrial drawing optional in the high school. By so doing the Board decides that in the high school said studies are not required. (See Section 1665 of the Political Code.

Attorney-General Johnson, December, 1890.

# OPINIONS OF STATE SUPERINTENDENTS.

---

ABSENCES.

1. Records of the half day absences should be made, and they should be reported to the County Superintendent.

2. Every half day's absence should be noted and counted as such in making out reports.

3. If a pupil has been absent for five consecutive days, on the close of the fifth day the teacher should place a letter L in the space next the last day on which such pupil was present. When he returns the letter R should be placed in the space representing the day upon which the pupil returned. No absence should be counted from the last day on which he was present until he is absent after his return.

4. If a pupil has been absent for five days put a capital "L" in the space for the day next the last day that he attended, and a letter "R" in the space for the day on which he returned. The days intervening, including the one in which the L is placed, are not counted as days absent.

ABUSE OF TEACHERS.

5. A teacher while returning home from school, one evening, was grossly insulted and abused by one of the parents residing in the district. It was done in the hearing of two or three of the pupils who had attended the school that day, but who at the time of hearing the abuse were at home, or had been at home since the close of the afternoon session. Held, that these children would be considered within the meaning of the law, and an action for misdemeanor would lie against the abusive parent.

ADMISSION TO THE SCHOOLS.

6. If the Trustees are willing, a person over twenty-one years of age may attend the school in his district. Section 1662 says that "Trustees have power to admit adults whenever good reason exists therefor."

7. A child working away from home, in an adjoining district, is entitled to admission to the school in such district, without the payment of tuition. As a resident of the district, he is entitled under the provisions of Section 1662 of the Political Code. If a boy works and supports himself he is supposed to gain a residence where he lives.

8. Section 1662 of the Political Code requires that all schools shall be open for the admission of all children between six and twenty-one years of age residing in the district. Trustees have not the right to charge tuition from any parties not over twenty-one years of age; for parties over twenty-one or for parties not residing in the district tuition may be charged.

9. Section 1617, subdivision 9, and Section 1662 of the School Law authorizes the admission of children under six years of age to classes in cities in which the kindergarten work has been adopted. These children, as in the case of children in the grammar schools who are over seventeen years of age, are included in making up the average daily attendance.

10. Pupils who have been graduated from the grammar schools may be permitted to attend such schools after graduation; but in case they are permitted to do so, they must pursue the course of study adopted for such schools, and must in all respects be subject to the regulations of the schools.

11. The lowest age at which children are admitted to the schools, except in cities and towns in which the kindergarten work has been adopted, is six years. In the latter case they may be admitted when four years of age.

AGENT.

12. Section 1870 clearly prohibits a teacher from acting as agent for a publishing house during vacations.

13. The law does not prohibit a teacher from acting as the agent of a publisher in all cases. It prohibits him from acting as an agent in introducing any article whatever into the common schools of this State. He can sell their works to private individuals without violating the law.

14. Under the terms of Section 1870 of the Political

Code, a teacher cannot, directly or indirectly, contract for or *receive* any gift or reward for introducing or recommending any books for use in the public schools; nor would a teacher conform to the spirit of the law if he were to accept commission from any firm for purchasing books for his school, even though those books be among the books recommended by the County Board of Education.

ALIENS.

15. The Board of Supervisors cannot legally appoint an alien upon the Board of Education. In this opinion the Attorney-General concurs. (Political Code, Sections 841 and 4101.)

16. There is no section of the law which prevents an alien from teaching in the schools of this State.

17. The wife of a person who has not been naturalized *can* hold the office of Trustee, provided she herself is a citizen. If she is an alien she cannot hold the office.

18. A woman of foreign birth is eligible to the office of Trustee if her husband is a naturalized citizen. The naturalization of the husband carries with it the naturalization of the wife.

APPARATUS.

19. The school apparatus mentioned in Section 1712 refers to, and by the term "apparatus" is meant, those material instruments which are used solely in the process of conveying instruction to the minds of the pupils, such as maps, globes, etc.

20. Apparatus or books not on the list recommended by County Boards of Education cannot be purchased by Trustees; and the County Superintendent has the right to refuse to draw a requisition to pay for any purchased not on the list. It is his duty to refuse a requisition.

21. The Library Fund cannot be used for the purpose of purchasing apparatus not strictly required in the prosecution of the work of the school, as indicated in the course of study.

22. Boards of Trustees ought carefully to ascertain whether or not any articles of apparatus are required for their schools. Teachers ought to know, before asking for any apparatus, whether they need what they ask for, and

whether what they ask for will suit for the purpose for which it is asked. Trustees should purchase no apparatus unless the teachers, who are supposed to know what they need, desire to have such apparatus. Teachers and Trustees ought always to consult the needs of the school, and not listen to the importunities of agents. We find that frequently books and apparatus are purchased for the schools that are of no earthly use, and the money thus expended is literally wasted.

APPEALS.

23. There is no power to which an appeal can be taken from the decision of a County Board of Education. These Boards are given full control of the matter of teachers' certificates within their respective jurisdictions. This power is conferred by Section 7 of the Constitution.

24. A teacher most certainly has the right of appeal to the courts, as other citizens have; but the law having provided specially for cases that may arise, it would be better for the teacher to avail himself of this special right of appeal before invoking the expensive machinery of the courts.

25. There is no provision of law allowing an appeal from facts found by a County Superintendent in regard to a controversy between the Trustees of a district and a teacher teaching therein.

26. Teachers can appeal to County Superintendents in cases referred to in Section 1698 of the Political Code, and to the State Superintendent only in cases where their salary is withheld.

APPORTIONMENT.

27. State school moneys are apportioned to the several counties by the Superintendent of Public Instruction in proportion to the number of census children in the respective counties, as shown by the census of the year preceding the one for which the apportionment is made.

28. County Superintendents make, and are responsible for, the apportionment of all the State and county moneys to the several districts in their respective counties, in accordance with the provisions of the law.

29. Neither the Superintendent of Public Instruction nor the County Superintendent of Schools has any discretionary power in the apportionment of school moneys. The terms of the law are explicit and mandatory, and a violation of them is punishable as a misdemeanor and by removal from office.

30. Districts having less than ten census children are not entitled to any apportionment, except upon average daily attendance, as provided in Subdivision 4, of Section 1858 of the Political Code.

31. The first three subdivisions of Section 1858 are undoubtedly clear. Assuming then that the County Superintendent has, first, ascertained the number of teachers each district is entitled to; and second, the total number of teachers in the county; and third, that he has given $500 to each district for every teacher assigned to it, except to those districts having ten and less than twenty census school children, to which last he has apportioned only $400; he will then, fourth, divide whatever balance of school money there may still remain by the number representing the average daily attendance of the *whole* county during the preceding school year, and multiply the quotient by the average daily attendance of each district during the same year, and the product will be the amount of *pro rata* money to be given to the districts respectively. *All* districts not lapsed, under Subdivision second, of Section 1543, are entitled to share in this *pro rata* apportionment.

32. Two Trustees employed a teacher who had no certificate. The employment was contrary to the wishes of a very large majority of the district. After teaching some three months without a certificate, the teacher passed the examination before the County Board and obtained a second grade certificate. Three weeks after this the two Trustees drew and signed an order for $201 in payment for *these three weeks,* nothing having been paid for the three months during which the teacher had taught without a certificate. The whole proceedings concerning the appointment and payment of the teacher are irregular and illegal. If by reason of such proceedings a legal school is not maintained for six months the district will not be entitled to apportionment for the following year. The

district would not lose its organization; but if it loses its apportionment, school could be maintained only by raising money by special tax for that purpose, as provided in Sections 1830 to 1839 of the Political Code.

33. No apportionment of moneys can be made to any district, except on average daily attendance, unless there are in the district, at least, *ten* census children; and the law is inflexible. If a deviation might be made for eight or nine, it might be made for four or five. The line has to be drawn somewhere, and the Legislature, in its wisdom, has fixed the limit at ten.

34. Under the first subdivision of Section 1858, not less than ninety census children would entitle a district to two teachers.

35. The meaning of Section 1858 of the Political Code is found by using the ordinary and popular signification of the word "guardianship," *i. e., protection, care, watch.* The law undoubtedly intends to prevent any county from counting Indians who are for the time being residing therein as a tribe, or under the control of the Federal Government on reservations. But it would be contrary to the policy of the law to exclude individuals detached, not in tribal condition, living in the families and under the care and protection of whites. These are, or are liable to be, and should be, educated as such, and a *pro rata* of the school fund should be apportioned to them, and thereto they should be listed by the Census Marshals.

36. When children are prevented from moving back to a district by annual snowstorms, the district cannot lose its school money, nor would it lapse because of the provisions of Section 1859 of the Political Code: "A district which is prevented by flood or prevailing epidemic from maintaining a school for the length of time designated in Section 1859, is nevertheless entitled to its apportionment.

37. The districts will not lose their apportionment through the failure of the Census Marshal to report to the Superintendent at the time required by the law. The district should not suffer because of the neglect of the Census Marshal; but the Census Marshal should be punished, under the provisions of the law, for his neglect.

38. When the attendance in a district school has been reduced to less than five scholars, by "fire, flood, or prevailing epidemic," the intent of Section 1859 of the Political Code would allow the district to receive its apportionment, as usual. But the diminution must have been because of the reasons above spoken of, and temporary in its character

39. If the Trustees of a district continue to employ a teacher who does not hold a legal certificate in full force, after the Superintendent has notified them of that fact, it would be well for him to notify them that the apportionment of school moneys will be withheld, unless they cease to employ the teacher; and if they do not then discharge the teacher, it will be the duty of the Superintendent to withhold the apportionment, under Section 1860 of the Political Code.

40. If a district has twenty children between five and seventeen years of age, it is entitled to one teacher; if it has ninety, it is entitled to two teachers; if it has one hundred and sixty, it is entitled to three teachers.

41. State and county moneys must be apportioned, in the first place, on the basis of children between five and seventeen years of age. The surplus, after apportioning in this manner, is distributed on the basis of average daily attendance.

42. A new district, formed by the subdivision of two old ones, each of which had maintained school during eight months of the preceding year, is entitled to apportionment at the same time with the others, and independently.

43. "No school district," says Section 1860 of the Political Code, "is entitled to receive any apportionment of State or county school moneys, unless the teachers employed in the schools of such district hold legal certificates of fitness for teaching in full force and effect."

44. No school district is entitled to receive any apportionment of State or county school money which has not maintained a public school for, at least, six months during the next preceding school year, unless the district is a new one, formed by the division of an old one, and school has been maintained in the old district for at least six months.

45. The four hundred dollar teacher is allowed only in those districts in which there are less than twenty census children and as many as ten. This is a very liberal provision of the law to secure to small settlements a school, to prevent the children from growing up without education. But whenever a district has twenty or more census children, it has nothing to do with a four hundred dollar teacher. Such districts are entitled to $500 for one teacher till they have more than eighty-nine census children; to $1,000 for two teachers until they have more than one hundred and fifty nine; to $1,500 until they have more than two hundred and twenty-nine, etc.

46. Section 1859 is intended for the relief of districts prevented by the elements from maintaining school; and although deep snows are not literally floods, yet the kind which fall in some districts effect the same result, and make it impossible for the pupils to attend. The reason and intent of the law are met in such cases, and the district does not lose its apportionment.

47. Districts do not receive the "pro rata" for each child in the same way as that in which the State apportionment is made.

48. Two Trustees can close the school even if there be $500 to the credit of the district. The majority of the Trustees have control; but if an eight months' school is not maintained, the balance of the money on hand at the end of the year must be reapportioned by the County Superintendent.

49. A district organized during the last school year has a right to the same apportionment of money as an older district. [But not of any moneys belonging to the year in which it was organized.—J. W. A.]

50. It is not necessary that a new district should maintain a school, at the expense of the district, for three months or any number of months in order to entitle the district to its pro rata of funds. The object of limiting the time within which the new district can be formed is to cause the district to be formed prior to the taking of the school census.

51. If the district does not conduct an eight months' school during the school year, the moneys remaining in

the treasury to the credit of such district must be reapportioned as other school moneys.

52. A district that fails to maintain a school for six months is not entitled to receive any apportionment of State or county funds. Such district does not lapse, but during the next year it would have to maintain a school at its own expense in order to entitle it to an apportionment for the following year.

53. Under Section 1858 of the Political Code, as amended, Statutes of 1889, page 195, Volume 5, Supplement to the Codes, in my opinion no power exists to appropriate State or county school money to a school district having less than ten census children, except that after the other districts have been provided for the school money remaining on hand is to be apportioned to the several districts in proportion to the average daily attendance in each district during the preceding school year. (Deputy Attorney-General Sanders.)

54. A district cannot be deprived of its right to apportionment of funds simply because it has less than *ten* census children. It must receive its pro rata, according to the daily average attendance, of all moneys remaining after districts entitled to $500 or $400, respectively, have had these amounts apportioned to them.

55. County school moneys may be used for any of the school purposes mentioned in the chapter of the Political Code relating to public schools. This chapter does not, either expressly or by implication, authorize the use of county funds for the support of high schools. This being the case, the average attendance in high schools forms no factor in the apportionment of the county funds. Section 1622 of the Political Code plainly states that the State fund must be used for the salary of teachers in the primary and grammar schools. Hence the average attendance in high schools cannot be taken into account in apportioning school funds, either State or county, among the several districts.

56. The same principle obtains in subdivision 3 of Section 1858, second proviso, relative to a district having *one seventy* and a fraction of less than twenty census children, as does in the case of a district having TWO SEVENTIES and

a fraction of less than twenty census children, or as does in the case of a district having *any number of seventies* and a fraction of less than twenty census children. If a small district has ten children and less than twenty, it is entitled to $400; if the district has twenty children and up to and including seventy, it is entitled to $500; if the district has seventy children and up to and including eighty-nine, it is entitled to $500, and to $20 for each child in excess of seventy, up to and including eighty-nine; if the district has ninety children and up to and including one hundred and forty, it is entitled to $1,000, etc.

57. A new school district is not entitled to any apportionment of the funds, either State or county, for the school year in which it was formed. The object of forming the new district between the first day of December and the fifth day of April, in any year, is to enable a census of the children to be taken, in order to have a basis upon which to apportion the funds for the school year beginning on the first day of July next succeeding the formation of the new district. Children residing within the limits of the territory embraced in the new district are entitled to attend school in the district from which the new district was formed until the first day of July next succeeding the formation of the new district. If the residents of the new district think proper to begin the school therein prior to the first day of July, they must support it at their own expense.

58. During the year next succeeding the formation of a new district, there can be no apportionment for average daily attendance, because the new district is not supposed to have any such attendance.

59. Under the decision of the Attorney-General, the funds apportioned in July of any year, having accrued from taxes levied for the school year ending June 30th, and from interest accruing during said year, belong to the school year ending June 30th; and, although the apportionment is not made until July, these funds are to be used for the support of schools for the year ending June 30th preceding. Any balance is carried over to the credit of the districts for the year in which the apportionment is made. New districts are not entitled to any portion of

the July apportionment, as this apportionment belongs to the year in which the new district was formed.

60. A district that has less than ten census children is not entitled to an apportionment of $400 or $500; but it is entitled to a *pro rata* apportionment of money remaining after the apportionment of $400 and $500 has been made to districts entitled thereto.

ATTENDANCE, AVERAGE DAILY.

61. In cases where kindergarten classes have been established, the children under six years of age are to be regarded in the same light as children over seventeen. Children over seventeen have always been counted in estimating the average daily attendance. Pupils attending high schools are not counted, because neither city high schools nor other high schools are supported except as provided by law. The State Fund is never apportioned to high schools; nor do they receive any benefit from county funds. These schools in cities are supported by city taxes, and where formed under the County or Union High School Bills, they are supported as provided in those bills.

62. The average daily attendance in high schools forms no factor in the apportionment of either State or county school moneys. The support of high schools is provided for in the Acts relative to high schools, or in the charters of cities, and the State and county funds are to be appropriated to the maintenance of primary and grammar schools.

BIBLE, THE.

63. The Political Code does not prohibit reading of the Scriptures in the public schools. The law reads, that there shall be no sectarian or denominational instruction given in the schools.

64. There is nothing in the law that prohibits the reading of the Bible in the public schools. The Bible is not a sectarian book, nor is the Lord's Prayer referred to in the law.

65. The Legislature has never taken action relative to the use of the Bible in the public schools. Its use is a matter to be determined by the Trustees or the County Board of Education.

BIENNIAL CONVENTION.

66. By the fourteenth subdivision of Section 1533 of the Political Code, the law in a very explicit manner leaves no option to the County Superintendents about attending the biennial convention; the law is imperative.

67. The Board of Supervisors of a county must pay the expenses of the County Superintendent incurred in attending the biennial session called by the State Superintendent, under Section 1533 of the Political Code. I do not see anything in the County Government Act in conflict with said section. (Attorney-General Johnson, December, 1888.)

68. Superintendents cannot be paid a per diem for attending the biennial convention of Superintendents. This is one of their official duties. They are entitled only to their necessary traveling and subsistence expenses.

BILLS.

69. The law relating to bills being itemized, except in the case of teachers' salaries, is mandatory, and cannot be suspended to accommodate Census Marshals, or District Clerks. The Superintendent should refuse to draw his requisition in favor of a Census Marshal unless the bill is itemized, or when the amount claimed is plainly in excess of a reasonable amount.

70. An itemized account of everything purchased, or of work done for the Board of Trustees should always accompany the Trustees' order. When Trustees purchase supplies for their schools, or have work done for the same, and they pay for the same, they cannot make out an order in favor of themselves, without at least presenting the receipted bill of the firm or the party employed.

BLACKBOARDS.

71. The Library Fund cannot be legally used in the purchase of a blackboard.

72. Blackboards do not fall under the head of apparatus, and cannot be paid for out of the Library Fund. Blackboards are school furniture, and must be paid for out of the County Fund, after eight months' school has been taught.

BOARDS OF EDUCATION, CITY.

73. City Boards of Education are not required to elect teachers annually.

74. According to Section 1576 of the Political Code, as amended by the Legislature of 1893, parties residing in territory which has been annexed to a city for school purposes, are entitled to vote for members of Boards of Education and of Boards of Trustees. They vote at precincts designated in their own portion of the territory, each separate portion of outside territory being an election precinct by itself. The legislative authority of the city or town designates the precincts; and the electors in the outside territory vote only for the members of the Board of Education, or Board of Trustees.

BOARD OF EDUCATION, COUNTY.

75. The acts of a person appointed by the Superintendent to fill the place of an absent member of the Board of Education during his absence would be illegal.

76. The County Superintendent of Schools is a member of the Board of Education. *Any* three members are a quorum, and on all general business the vote of two members is the will of the Board; but the law excepts the adoption of text-books, and the granting of, or revocation of, certificates. These grave matters require the united votes of *those* members who constitute a majority of the Board, whether all the members are present or not. If there are but *three* members present and they *all vote together*, well and good on any and all matters; but should the matter fall in the excepted cases named in Section 1768, and only *two* vote together, then nothing is done on that particular matter. All acts of the Board heretofore done are valid, provided they follow the law as here explained.

77. The members of the County Board of Education have a legal claim for services rendered in examining the schools.

78. When a member of the County Board of Education prepares students for examination by the Board of which he is a member, his action is, under Section 1776 of the Political Code, a misdemeanor. Upon conviction thereof his office shall be declared vacant.

79. No member of a County Board of Education has the legal power to appoint a deputy to perform duties devolving upon him as such member, unless it be the County Superintendent. The Deputy of the Superintendent can act as such member by virtue of his being such Deputy.

80. When any member of a County Board of Education is engaged in preparing students to be examined by the Board of which he is a member, and in which examination he takes a part, he is guilty of unprofessional conduct in the highest degree, and renders himself liable to have his own certificate or diploma revoked.

81. The County Superintendent is a member of the County Board of Education, with all the powers that belong to other members. Section 1768 is explicit.

82. There is nothing in the school law which makes the duties of any member of the County Board of Education conflict with the duties of Trustees.

83. The County Superintendent is undoubtedly a member of the County Board of Education. (See Section 1768 of the Political Code, in which the language is specific and pointed.) The County Superintendent should participate to the fullest extent in the deliberations of the Board, and he should perform his part in the examination of all applicants for teachers' certificates.

84. As a member of a County Board a party should have gained a residence in the county as well as in the State.

85. The law provides that two members of the County Board, at least, must be teachers holding first grade certificates. Such teachers are entitled to pay for the time spent in attending to their duties as members of the Board.

86. According to Section 1770 of the Political Code, the County Board of Education must meet semi-annually for the examination of applicants for teachers' certificates. The law also prescribes other duties for the Board; hence the Board should meet more than twice, if necessary, and, of course, should receive pay for all their sessions.

87. I do not think that the Board of Supervisors of a county can deprive members of the County Board of Education of their per diem for three days, for the reason that

it took three days for them to prepare questions for applicants for teachers' certificates. The law says "the Board of Supervisors shall allow a per diem of five dollars to each member of the County Board of Education," and does not say that the questions shall be prepared beforehand, nor does it limit the time for such meetings.

88. County and City Boards of Education are supreme as far as the granting of certificates is concerned. So also in the matter of recommending for life or educational diplomas. They may or may not recommend, as in their judgment they deem proper.

89. A resident of another county cannot be selected as a member of the County Board of Education. If no one in the county can be found capable of filling the position, let it remain unfilled.

90. The County Board of Education must hold meetings semi-annually for the examination of teachers; but for other purposes they may meet as often as may be deemed necessary; there is no limit.

91. As many days are allowed for sessions of the Board of Education as, in the judgment of the Board, may be deemed necessary.

93. When members of the County Board of Education have been summoned to meet for the purpose of investigating charges preferred against a teacher, they are entitled to the regular per diem and traveling expenses.

94. Members of the Board of Education are not entitled to any extra pay for night sessions. The per diem has no reference to sessions.

95. Under the law the members of the County Boards hold their office for two years or until their successors have qualified. Members of County Boards are officers under the law and must qualify by taking the oath of office within ten days after appointment, otherwise the appointment is null and void, and it would be the duty of the Superintendent to appoint. If at the expiration of two years the Board of Supervisors fail to appoint members of the Board, it is the duty of the Superintendent to appoint.

96. The causes enumerated in Section 996 of the Political Code will operate in the case of members of County

Boards of Education. Non-residents cannot hold positions on such boards. All members of such boards must take the usual oath of office before entering upon the discharge of their duties; otherwise their appointment would be null and void after the period of ten days.

97. Being Chairman or a member of a City Board of Examination does not preclude one from being a member of a County Board of Education. It would, however, be more in accord with what is appropriate that one should not be a member of both boards.

98. The members of the County Board of Education are entitled to salary whenever, for any purpose connected with the schools, it becomes necessary for them to meet.

BONDS.

99. Money obtained by selling bonds can be used only for the purpose of erecting school-houses, or purchasing one or more school-houses, and furnishing the same, and liquidating the indebtedness of school-houses already built. This money is used in connection with *school-houses* only, as will appear by the language of Section 1880 of the Political Code. Section 1830 of the Political Code provides that the Board of Trustees of a district may call an election in a district, by which it shall be determined whether the people in that district will submit to a tax by which additional school facilities shall be furnished. The money raised by this tax can be expended only for the purposes for which it was raised; it cannot be used to pay interest on bonds. Section 1887 provides for the payment of this interest by another method. The Board of Supervisors must provide a fund for the payment of this interest by levying a tax for that purpose at the same time that they levy taxes for the county purposes.

100. If a new district is partially formed by the division of an old one, it becomes entitled to all property lying within its own boundaries, and is subject to the proportionate indebtedness of those portions of other districts which have been a part of it. A district issues bonds for the purpose of obtaining money with which to build a school-house; a part of this district has since become a part of a new one. As the debt has not been paid, although a part of a new district, it is still liable for its share of the

indebtedness. This is in accordance with a plain principle of equity. (See Hughes v. Ewing, 93 Cal., 414.)

101. A Board of Supervisors should not change the amounts, denominations, etc., of bonds, from amounts, denominations, etc., set forth in the notices signed by the Board of Trustees. If they could so change them, there would be no use for the steps precedent taken by the Trustees; and the section providing for them in the Political Code would have no effect given to it. It will be necessary for Trustees to commence *de novo*, and provide in their notices for bonds which will come within the limits of the taxable property in the district as shown by the last equalization assessment book of the county.

102. When a district is divided the parts into which it is divided are not freed from responsibility by that act from the debts of the original district. The rights of parties cannot be affected or destroyed by the act of division. The new districts so formed are as responsible for the bonded indebtedness of the old district as was that district itself. (See Thompson v. Abbott, 61 Mo., 176; Stroud v. Stevens Point, 37 Wis., 367; Rogers v. People, 68 Ill., 154; Hughes v. Ewing, 93 Cal., 414.)

103. After notice given for an election for bonds to the sum of $2,000, a vote cannot be legally cast for $1,500.

104. In case a school district has issued bonds for building a school-house and subsequently a new district is formed from a part of said district, the tax to be levied under the law is to be upon the taxable property of the district, and if at the time of the levy a part of the property of the old district is in a new district, such property in the new district is not, in my opinion, liable to tax. (This opinion is confirmed in the case of Hughes v. Ewing, 93 Cal., 414.—J. W. A.) Attorney-General Johnson, December, 1888.

105. There is nothing in the law prohibiting the changing of the boundaries of a district prior to the time when bonds which may have been issued are paid; but in a case presented to Attorney-General Hart in relation to bonds, he decided that the "inhabitants of the territory voting the bonds will have to pay them." (See Hughes v. Ewing, 93 Cal., 414.)

106. In my opinion Boards of High School Trustees, under Section 6 of the High School Act (Statutes of 1891, p. 183), have power to "submit to the electors of the district whether bonds of such district shall be issued and sold" for the purposes mentioned in Section 1880, Political Code. (Second Deputy Attorney-General Sanders.)

BOOKCASES.

107. A bookcase cannot be purchased with the library fund, it being furniture.

108. A bookcase is part of the furniture of a school and cannot legally be purchased with the library fund.

109. The library fund cannot be used for the purchase of bookcases. Bookcases do not come under the head of apparatus, but under that of "school furniture," or under that of "such other things as may be needed."

110. The law will not permit the purchase of a library case from the library fund. Bookcases are school furniture, and, hence, cannot be paid for out of library moneys; they can be paid for out of the county fund after an eight months' school has been maintained.

BOOKS, LIBRARY.

111. District Trustees have power to purchase only the books that have been *adopted* by the County Board of Education.

112. Section 1771 of the Political Code gives to County Boards of Education the power to prescribe the list of books for the school libraries. They alone have that power; the State Board of Education has only the power to recommend. The Trustees have no power to purchase books not on the list adopted by the County Board. But the Trustees may determine what books on the list adopted they will purchase.

113. Books that are not on the list adopted by the County Board of Education cannot be paid for out of the library fund.

114. The law places the adoption of a list of books for libraries in the hands of the County Board of Education. When once adopted, the list must be adhered to. The law permits no one else to make a list, and the County

Superintendent should not draw a requisition to pay for any book not to be found on the official list.

115. Section 1771 of the Political Code, Subdivision 4, makes it the duty of the County Board of Education to adopt a list of books for the district school library. If it is their duty to adopt such list, it is the duty of Trustees and teachers to abide by that adoption. A Superintendent does his duty when he refuses to draw a warrant to pay for books or apparatus not on the adopted list.

116. Trustees have not a legal right to purchase books or apparatus not adopted by the County Board of Education. Should they do so, the Superintendent should refuse to draw his requisition in payment of the amounts due.

117. The County Fund, after an eight months' school has been taught, can be used for the purchase of apparatus, but not for the purchase of library books. (See opinion of Attorney-General Johnson in May number of the JOURNAL in 1888, page 151.)

118. It is the duty of County Boards of Education to adopt lists of books for school libraries. The Trustees are not at liberty to purchase books that have not been adopted by the County Board of Education, and the Superintendent must refuse to issue his requisition upon the Auditor for any warrant in payment for books not adopted by proper authority.

119. Trustees are not at liberty, under the law, to purchase any books or apparatus that have not been *adopted* by the County Board of Education, even though such books or apparatus may have been *recommended* by the State Board of Education.

120. There is no provision in the law which authorizes Boards of Education or Boards of Trustees to dispose of any library books by sale. In the case of a lapsed district, the Board of Supervisors of the county can dispose of the property of the district.

121. The amended law provides that all orders for books or apparatus made by Boards of Trustees must be submitted to the Superintendent of Schools for his approval before the books can be purchased. If this is not done, the Superintendent is authorized to refuse to draw a requisition in payment of the order.

122. Trustees cannot issue an order for books or apparatus to exceed the amount of funds accruing to the district for the school year; if they do, the order is void as against the district.

123. An order for books or apparatus not authorized at a regular or special meeting of the Board of Trustees is null and void. No business of any kind is valid unless transacted at a meeting of the Board, of which the members have had notice.

BOOKS, SUPPLEMENTARY.

124. Supplementary books of any kind can be purchased with the Library Fund, provided such books have been adopted by the County Board of Education. One copy of each book may be purchased, or a number of each book sufficient to supply a whole class in the school may be purchased. When purchased such books are library books, and must be marked as such. It is a violation of the law for teachers to require pupils to purchase any book, except those required by the course of study as regular text-books.

125. Supplementary books may be purchased with the Library Fund (Section 1712); but such cannot be made to take the place of the adopted text-books, nor can they be adopted as text-books. Under no circumstances can pupils be required to purchase supplementary books, or any books not coming within the purview of text-books proper. (See Chapter CCXXXVII, page 81, of School Law.)

BUILDING.

126. Under Subdivision 5, of Section 1617 of the Political Code, the Trustees may build a school-house when authorized by the vote of the district. Under Section 1621, the Trustees must use the money received from county apportionments exclusively for the support of school for that school year until an eight months' school has been maintained. After school has been maintained for eight months, any balance remaining at the end of the year may be used to pay claims outstanding. If there is still a balance on hand, after the maintenance of an eight months' school, and after the payment of claims outstanding, the money remains to the credit of the district, and may be used the year succeeding. If in a district an eight months' school is kept year after year, and a balance ac-

cumulates to the credit of the district, the portion of this sum which was received from the county may be used for any of the purposes authorized by this chapter. (Section 1622.) One of the purposes so authorized is the building of a school-house by the Trustees when so directed by vote of the district. (Section 1617.) After the maintenance of an eight months' school, the portion of the balance which was received from the county is, under the above limitations, subject to such use.

127. A district, after keeping school six months, cannot use any balance remaining on hand for building a school-house. The State and county moneys must be exclusively used for the support of the school until an eight months' school has been taught.

128. Trustees have no power to enter into a contract for the building of a school-house immediately after a tax for that purpose has been voted. They must wait until the tax has been collected and paid into the County Treasury for the use of the district. It can then be used only for that purpose which was specified in the notice of election.

129. From the balance of County Fund left after an eight months' school the building of a school-house can be paid for, if the money is due before the expiration of the fiscal year, and it has become a claim against the district outstanding. And so of fences and furniture.

130. A Board of Trustees cannot build a school-house, and lawfully pay for the same out of money belonging to the district, without first being directed to do so by the qualified electors of the district.

131. In case a building has been destroyed by fire, before rebuilding a meeting must be called to determine the matter, in accordance with Section 1617 of the Political Code.

132. Trustees should in no case build a school-house upon private property without first acquiring a legal right to the same, as the building could be claimed by the owner of the land.

133. Section 1876 of the Political Code decides definitely that no Trustee can be interested in any contract made by the Board of which he is a member. Hence, a Trustee

who is a carpenter cannot take a contract from his Board to build a school-house.

134. Trustees cannot draw money to pay for the materials to build a school-house before the work is done. Requisitions should be drawn only for materials furnished and work actually done.

135. The legal course for Trustees, when about to build a school-house, is to advertise for plans and specifications.

136. The County Fund cannot be used to pay any liabilities of the district, or for the purpose of building, until after an eight months' school has been taught.

CENSUS.

137. The law makes it the duty of the County Superintendent to have the census retaken if at any time he has reason to believe it has not been correctly taken. If the Trustees of a district will testify to the Superintendent that the returns are wrong, it is his duty to have the census retaken or corrected, and then he must make his apportionment to correspond with the amended returns.

138. In taking the census of a joint district, the children in each county must be reported separately. The number belonging in each county must be given to that county, otherwise the State Superintendent cannot apportion the State School Fund correctly.

139. Section 52 of the Political Code says: "The residence of the father during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor child." Under this statute a minor child should be listed where his parents live.

140. If the census of a district has been taken by a Trustee without his having been appointed and qualified as a Census Marshal, the census so taken would be illegal.

CENSUS CHILDREN.

141. In the matter of orphan asylums, Section 1638 of the Political Code governs. The sisters in charge of the institution are not guardians of the children within the meaning of the law, unless they have been duly appointed by a competent court, and unless there is proof of such appointment the children should not be included in the

Census Marshal's report. (Attorney-General A. L. Hart, August, 1881.)

142. When children of a family are taken by the Census Marshal in one district on the *morning* of the 15th of April, and the same family moves into another district in the *afternoon* of the 15th, the Marshal in the district to which they have moved should not list the children, they having already been listed in the other district.

143. If children who reside in the district on the summit of the Sierras during the summer leave the district in the winter because of the snow, *with the intention of returning again*, it matters not when they return, whether later this year or earlier than usual, they are still residents of the district, and the Census Marshal can enumerate them, whether in the district or out of it.

144. The Census Marshal must not include in his report children who are attending orphan asylums in his district, but whose parents or guardians *do not reside therein*. There is no other view that can be taken of Section 1638 of the School Law.

145. If sisters who have charge of an orphan asylum have been appointed, by will or by deed, to take effect upon the death of the parent appointing, they are to be considered the guardians of the children under their charge. If the child be legitimate the sisters may be appointed guardian, in the above manner, with the written consent of the mother, by the father; or if either parent be dead the written consent is not necessary. If the child is illegitimate the sisters may be appointed guardians through the last will of the mother, or by a deed to take effect upon the death of the mother. In other cases there is no law by which the sisters become guardians. If they were to be considered guardians of all the children in their district who did not have other guardians in the district, Section 1638 would be useless and a nullity. In the construction of a statute the object is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all. (See Section 1858, Code of Civil Procedure.) The reason for Section 1638 is that as

orphans in attendance at asylums receive every year for their support and education from the State the sums of $75 for half orphans and $100 for whole orphans, and as they are being educated in those asylums, the district should not have apportioned to it an additional sum to pay for their support in public schools which they do not attend. If, however, they should cease to be educated in the asylums and should go to the public schools to be educated, the Census Marshal would have to list them; and a certain sum would have to be apportioned in consequence for their support, while the asylum would cease to receive the sum which had formerly been provided for that purpose. [The last part of this opinion is doubtful. J. W. A.]

146. Mongolians between five and seventeen who are *native born* in the United States are to be listed in the proper column.

147. When children attending at an orphan asylum have parents or guardians residing without the district, the Census Marshal in the district in which the asylum is must omit those names from his list. If the parents or guardians reside in the district, they must be listed.

148. No Census Marshal must count children in the census returns when said children are in the district only on a visit, and whose parents reside in other districts. Such a proceeding would be illegal and dishonest.

149. Children should have arrived at the *full* age of five years before being enrolled by the Census Marshal; and they should not be listed if they are *one day* over seventeen years of age.

150. If a family moves into a district on the 15th day of April, or before the close of the 30th day of April, the children in such family should be listed by the Marshal in that district, unless the children were listed in the other district prior to the removal of the family therefrom.

CENSUS MARSHAL.

151. Trustees have no right to *employ* one of their number as Census Marshal. It is forbidden by Section 1876 of the Political Code.

152. A Census Marshal must not include in his report *all* the children who are in an orphan asylum which is located in his district, but those only whose remaining

parent (if half orphans) or guardian (if they have any) resides in his district. The other children will be included in the reports of the Census Marshals from whose districts they came to the asylum, and in which the remaining parent or guardian resides.

153. In joint districts the Census Marshal must report to each County Superintendent the *whole number* of census children in the district; and, also, the number of children in the county of which the party to whom the report is made is Superintendent. This is necessary in order that the Superintendents may properly apportion the school moneys to such districts in accordance with Section 1583 of the Political Code.

154. A young man being only eighteen years of age, though thoroughly competent otherwise, is not eligible as Census Marshal. Section 841 of the Political Code reads: "No person is capable of holding a civil office who, at the time of his election or appointment, is not of the age of twenty-one years, and a citizen of this State."

155. No indebtedness incurred in one fiscal year can be paid for out of revenues provided for another. (See Section 18, Art. XI, State Constitution.) Consequently the census taken in May, 1884, cannot be paid for out of county apportionment of the present school year.

156. The law provides that Trustees cannot be interested in contracts made by them. For this reason Trustees cannot be paid to act as Census Marshals. If, however, they are willing to act without pay, I see no reason against it.

157. When a Trustee takes the Census and violates the law by paying himself out of the school fund, the District Attorney should be consulted.

158. A boy sixteen years of age cannot be employed to take the census.

159. A School Census Marshal is a civil officer.

160. A female but eighteen years of age cannot legally act as a School Census Marshal. Section 841 of the Political Code makes it necessary that any person to be eligible to any public office must have attained the age of twenty-one years. A woman who is of the age of twenty-one years may legally act as Census Marshal.

161. Members of Boards of Trustees cannot make contracts with themselves; therefore they cannot legally receive pay for taking the school census. If, however, a Trustee volunteers to take the census, it is the opinion of the Attorney-General that the census returns would be valid.

162. No Trustee can act as Census Marshal, unless he chooses to do so without compensation.

163. Census Marshals should be paid out of the county fund of the district.

164. If a Trustee takes the census, he cannot take any pay therefor; but the wife of a Clerk or Trustee may take the census and receive compensation therefor.

165. There is no provision in the law for the appointment of Deputy Census Marshals; but all necessary assistance should be given to complete the work in the time required by law.

166. If a School Trustee or District Clerk acts as Census Marshal, he cannot, under the law, receive any pay for such work.

167. A Census Marshal must be twenty-one years of age. If the Trustees have appointed a Marshal who is under twenty-one years of age, he cannot qualify, and the Trustees should fill the vacancy at once. If they fail to do so, they are liable under Section 1624 of the Political Code.

168. There is no law authorizing the election of a Census Marshal by the people. This officer must be appointed by the Board of Trustees, on or before the first day of April in each year.

169. The Board of Trustees has no right to draw upon the funds of next year to pay Census Marshals for this year, and the Superintendents ought to see that such orders are not honored.

170. Census Marshals cannot be paid for this year's work from next year's funds until after an eight months' school has been maintained; should there be a balance, it can be appropriated to the payment of outstanding claims.

171. If a district loses its apportionment in consequence of the failure of the Trustees to appoint a Census Marshal

in proper time, the Trustees are liable for the full amount which the district would have received had such failure not occurred; and this sum can be recovered by suit at law against said Trustees.

172. The Census Marshal, except in cities having Boards of Education, is not required to report the results of his work to any parties except the Superintendent of Schools. (See Section 1634 of the Political Code, subdivision 2.) Superintendents must report the census returns to the Superintendent of Public Instruction and to the Board of Supervisors. The Census Marshals must report on or before the 10th day of May; the Superintendents must report before the 1st day of July.

173. Should it be necessary for a Superintendent to reject the census returns as presented by the Census Marshal of a district, such Census Marshal's salary should not be allowed. The salary of the Marshal appointed by the Superintendent to retake the census in such district must be paid, if his work is approved, out of the county fund of the district as other claims upon that fund are paid. (See subdivision 5 of Section 1636, and Section 1639 of the Political Code.)

174. If the census has been taken by a Trustee who has been appointed to take it, such Trustee can receive no compensation for his work; otherwise he would be interested in his own contract, and such interest is contrary to law.

175. If a Census Marshal has been appointed to take the census of a district, he alone can take the census; the authority to do so cannot be delegated to another, either in part or in whole.

176. If the son of one of the Trustees of a district has been appointed to take the census, such son must be twenty-one years of age.

177. If a Trustee refuses to sign an order for the salary of a Census Marshal whose work has been approved, it is sufficient if a majority of the Trustees sign such order. If two or more of the Trustees refuse to sign such order, the Marshal can have recourse to the law.

178. Should it be necessary for the County Superintendent to reject the census of any district as taken by

the Census Marshal appointed for such district, such Census Marshal's salary must be withheld. No requisition must be drawn for the salary of a Census Marshal until his work has been approved by the County Superintendent.

179. The salary of a Census Marshal appointed by the Superintendent to retake the census of any district must be paid out of the county fund of the district, as other claims upon the fund are paid (see Section 1636, subdivision 5, and Section 1639); but no requisition for such Marshal should be ordered paid until his work has been approved.

180. There is nothing in the law which makes it illegal for a Trustee to act as a Census Marshal, but a Trustee acting in the capacity of Census Marshal cannot receive any compensation for his services.

181. If a Trustee, acting as a Census Marshal, fails to qualify, the census taken by him would be illegal, and must be rejected by the Superintendent.

182. The census taken by any party who is not twenty-one years of age is illegal, and must be rejected.

183. A County Superintendent cannot legally issue a requisition for the salary of a Census Marshal without an order from the Board of Trustees or the Board of Education, except as provided in subdivision 5 of Section 1636 of the Political Code.

184. A woman of foreign birth, whose husband is a naturalized citizen, is, by virtue of the husband's citizenship, a citizen, and may be appointed as Census Marshal.

185. No Trustee, nor any other person, can act as substitute for a Census Marshal. The Census Marshal himself, or herself, must take the census, and cannot delegate that duty to any one else. If any one, except the properly appointed Marshal, should take the census, it is the duty of the Superintendent to reject the census so taken, and order a new census.

## CERTIFICATES.

186. All certificates, after the expiration of the time for which they were granted, are *dead*, and cannot be legally renewed.

187. A certificate granted on one that has expired is not a *renewed*, but is a new certificate, issued without authority of law, and is therefore *invalid*.

188. A teacher in a certain county, teaching upon a temporary certificate, and who held a valid certificate in another county, was unable, through illness, to be present at the examination in the county in which she was teaching. The Board of Education in the county in which she held the valid certificate issued to her a new certificate upon her valid one. She then applied to the County Board in which she was teaching upon the temporary certificate for another temporary certificate upon the new certificate granted in the other county. Held, that it was not legal to grant a second temporary certificate, under Section 1543, Political Code.

189. Any resolution providing for the renewal of a certificate, which shall assume either to lengthen or shorten the time fixed by law for the validity of such certificate, is clearly illegal, and, therefore, null and void. It is, of course, within the power of the Board, for reasons which may seem to its members to be good and sufficient, to refuse to renew a certificate; and it would seem that the same considerations which would lead a Board to see its duty in a refusal to license a teacher for the full legal time, should operate with equal weight and force to cause them to refuse any renewal and any license whatsoever.

190. A County Board can grant a temporary certificate, valid until the next examination, even though the certificate upon which it is granted should expire before the time of the examination. It is by reason of holding the temporary certificate that the teacher is eligible to take a school and draw a salary, and not on account of the original certificate.

191. An expired certificate is no certificate in law; it is simply an evidence that the person named therein was entitled to teach in the public schools during the time specified *and no longer*. The fact that a period of time was named during which it should remain valid, shows conclusively that the Legislature considered time an important element in the contract. It would be quite as legal and proper for a notary to acknowledge instruments after the expiration of his commission as for a teacher to act

upon an expired certificate, or for a Board or Superintendent to recognize it as in full force; and a district in which a teacher should be employed upon no other credentials than an expired certificate, or one issued upon it, whether temporarily or otherwise, would be liable to the penalty expressed in Section 1860 of the Political Code, namely: "No district is entitled to receive any apportionment of State or county moneys, unless the *teachers* (all the teachers) in the schools of such district hold legal certificates of fitness for teaching in *full force and effect.*" It is entirely inexplicable how the last phrase can be tortured into including an expired certificate—one *not* in full force and effect.

192. It is perfectly legal for a City Board to grant a first grade certificate for the period named in the law upon a certificate of another city that expires in a short time after granting the new certificate. The time for which all certificates are to be issued, whether upon examination or upon the credentials named in Section 1792, must be the time laid down in Section 1791.

193. Under Section 1704 of the Political Code, no person is eligible to teach in any public school in this State, or to receive a certificate to teach, who has not attained the age of eighteen years. It would be contrary to the intent of the law to grant a certificate to a person, after that person had attained the age of majority, upon an examination which had taken place before that age had been reached. If such a proceeding were permitted, the examination might take place at any period of time prior to the time of granting the certificate.

194. If a certificate is granted to renew an expired one it is invalid, and a recommendation to the State Board of Education, founded upon such a certificate, would be invalid.

195. In the matter of granting certificates a County Board of Education is clothed with a certain degree of discretionary power—a power to act in accordance with the principles and dictates of their own reason. If they have this discretionary power, they will be able to say that it is unnecessary for an applicant to pass an examination in certain studies again in which he has already been examined at a previous meeting of the Board and in which he has

obtained the required percentages. In other cases the Board will have the power to compel the applicant to again pass an examination in studies in which they have already been successful. Of course, in such matters the Board must be governed by a sound discretion. An applicant who had years previously passed a successful examination, who had not since been engaged in teaching, who had since given no study to the subjects, could not stand on the same footing as a person who had passed in those subjects at the last meeting of the Board with high credit. It is a principle of common law, statute law, common sense and reason that in the administration of law no useless thing is required to be done.

196. The same person cannot receive a temporary certificate more than once in the same county, whether presenting a certificate of the same grade or of a higher grade.

197. A Board of Education has no power to receive a certificate which has once expired; to *renew* is not to *revive*. Parties desirous of renewal must make application before the expiration of the certificates, so that they may be renewed while there is yet life in them.

198. There is no such thing as a "proper" certificate which is not a valid certificate. A certificate is a certificate, and there is the end of the whole matter. A certificate is an instrument provided for by law, which authorizes the person to whom it has been granted to teach in the public schools within certain limits.

199. A temporary certificate cannot be granted upon a temporary certificate from another county.

200. A temporary or a regular certificate may be issued on the diploma of the San Francisco Girls' High School.

201. A person holding a certificate from the county of A received a temporary certificate from the county of B, and, appearing at the next examination in the county of B, failed. He then proposed to go before the Board in the county of C for examination, and, if he passes, will apply to the Board in the county of B for another temporary certificate. Section 1543 of the Political Code, Subdivision 7, would prohibit the issuance of such a temporary certificate.

202. The law does not permit the issuance of a tempo-

rary certificate more than once to the same party in the same county.

203. A teacher who holds only a second grade or primary grade certificate cannot be allowed to teach in schools of the grammar grade.

204. The County Superintendent of Schools has no power to grant temporary certificates upon the county certificates of other States.

205. It would be legal for a County Board to issue a certificate to an applicant whom they had one year previously examined and found well qualified. The lapse of a year does not necessarily raise a presumption against the applicant's proficiency.

206. Section 1704 of the Political Code says: "No person is eligible to teach in any public school in this State, or to receive a certificate to teach, who has not attained the age of eighteen years." There is nothing in the spirit of this section which will permit a person less than eighteen years of age to teach or to receive a certificate. The "spirit" of the law is that intention which the members of the Legislature had in their minds when they passed the law.

207. There is nothing in the law limiting the number of times a certificate may be renewed. In the case of a *second* or *primary* grade certificate, a single renewal seems to be all the indulgence which could reasonably be asked; after that the holder should obtain a *first* or grammar grade. Such is the practice in some of the County Boards.

208. A certificate was on file for renewal on June 5th, 1882, the date upon which the County Board met. The certificate was issued on June 5th, 1880. Although the Board was in session from June 5th, 1882, to June 10th, 1882, they did not renew the certificate till June 10th, 1882. They should have renewed it on the 5th of June, but as they did not, the innocent party should not suffer because of the neglect of the Board. This is one of the cases covered by Section 3529 of the Civil Code, which says that "that which ought to have been done is to be regarded as done in favor of him to whom, and against him from whom, the performance is due.

209. A County Board of Education cannot issue a second grade certificate upon a second grade certificate of another county.

210. Temporary certificates cannot be granted on State certificates of other States; nor can they be granted on county certificates of other States.

211. Temporary certificates can be issued upon the certificates of counties of *this* State only. The word "counties" in the law does not refer to counties of other States.

212. When a document is originally bad or invalid, no renewal can cure the defect.

213. Section 7, Article IX, of the Constitution, does not give to Boards of Education the power to grant certificates upon any standard, and to whomsoever they choose. It gives them the power to grant certificates, but the statute says upon what grounds they must be granted; and in using the power granted to them by the Constitution, the Board must move in the channel provided by statute. If the extraordinary proposition is to be maintained that the machinery which is provided for by legislation is to be ignored and that the Board has power to grant certificates as they will, their power becomes unlimited; they can raise certificates from the lowest to the highest without examination; they can grant certificates upon the quality of experience, a quality for which no law provides in connection with certificates; or they may do away with quality and grant certificates without it. In other words, if they act under the section of the Constitution alone, their power is unlimited. Of course, if the Legislature is to be obeyed, certificates cannot be raised from a lower to a higher grade without examination, and they cannot be granted without examination, except in those particular instances provided for in Section 1775 and Section 1792 of the Political Code.

214. For a Board of Examination or Education to grant certificates in a manner which they know to be contrary to the provisions of the Political Code, in regard to the issuance of certificates, to intentionally disobey the law, would make their act a misdemeanor.

215. Certificates cannot be raised from a lower to a higher grade without examination; but it is not necessary

that a party holding a lower certificate should again be examined upon the studies upon which the lower certificate was granted. It is sufficient if the party pass an examination upon the additional studies required for the higher certificate.

216. A certificate, while in force and in the custody of the County Superintendent, was lost by fault of those in his office. Subsequent to the loss a renewal was granted by the County Board of Education upon the testimony of the County Superintendent. If the renewal was made prior to the time at which the lost certificate expired, the County Superintendent should recognize its validity and draw his requisition in favor of the holder.

217. The matter of issuing certificates is left exclusively in the hands of the County Boards, and it is not the province of the State Superintendent to direct these Boards to issue or not to issue certificates.

218. It is unlawful to employ a teacher in the public schools who has not the qualifications prescribed by law, and who does not hold a valid certificate.

219. A certificate having expired cannot be renewed. The renewal of a certificate must take place at or before the time of expiration, or be granted in advance, to take effect from and after the date of expiration.

220. The County Board of Education has not the right to issue temporary certificates upon certificates granted in other States.

221. City certificates renewed by a County Board of Education have the same force and effect after renewal that they had before being renewed.

222. Those who hold city certificates are entitled by them to teach in city schools only.

223. A certificate cannot be issued upon an educational diploma that has expired.

224. A certificate is an instrument which is granted for a certain period of time. One second after the expiration of that time it is no longer a certificate. It is, after that period of time, of no more legal effect than a grocer's wrapping paper, and is of as much value as a certificate.

225. An *expired* certificate cannot be renewed; that

which is *dead* cannot have its life prolonged; there is no life to prolong. That such is the intent of the law is evident from the consideration that if a certificate could be renewed after being dead for a day, it could after the lapse of a year or of twenty years. The point has never been tried in the courts.

226. The County Superintendent may issue temporary certificates to the holders of *any* certificates granted in other cities, counties, or cities and counties of this State, which are valid and in full force. These temporary certificates cannot be granted on expired certificates, and they must be of like grade with the certificate upon which they are issued.

227. It would be a very irregular act or proceeding for a Superintendent to annul a temporary certificate duly issued and which had been acted upon, until the teacher appeared for examination.

228. A teacher has no right to teach in a public school of one county upon a certificate granted in another county.

229. The failure of a teacher who holds a certificate granted in one county to pass an examination in another county, does not annul the certificate obtained in the former.

230. The Superintendent is authorized by law to grant *temporary* certificates upon those of like grade from other counties or cities. These are good only until the regular meeting of the County Board. They can be issued only once to the same person in the same county.

231. No certificate can be granted upon an *expired* educational diploma, for it is no longer a diploma.

232. In regular course a teacher should apply for a permanent certificate, or rather a regular certificate, to the county which granted the temporary one. It would seem, in the case of a *joint* district, that if one of the counties declined to grant a certificate, official comity would forbid the other to interfere.

233. A first grade county certificate may be legally issued on a lapsed educational diploma, provided that the applicant for such certificate files his application with the Secretary of the County Board of Education prior to the

time the educational diploma has expired; and provided further, that the County Board shall grant such certificate as of the date when such application was made.

234. There is no provision in the law that authorizes the granting of a first grade certificate upon a temporary certificate.

235. A county certificate granted on a county certificate of another State is not a legal certificate; and the Superintendent who draws a requisition in payment of the salary of a teacher holding such a certificate is guilty of a misdemeanor.

236. The number of times that any certificate may be renewed rests entirely within the discretion of the Board of Education.

237. It is not legal for a teacher to teach any school under a lapsed certificate; and no warrants can be legally drawn in favor of a teacher who does teach under such certificate.

238. A grammar grade certificate may be issued upon an educational diploma the day before the said diploma expires; but no certificate can be issued on expired educational diplomas, or upon expired certificates.

239. Applicants for primary certificates should be examined in physiology.

240. County Superintendents cannot grant temporary certificates on certificates from other States. The law allows the granting of temporary certificates only upon life diplomas, or normal school diplomas of other States.

241. If an applicant cannot legally *receive* a certificate before he attains the age of eighteen years, he cannot legally be examined for such certificate till he has attained that age. It is a technical violation of the law to admit to an examination those who are not fully eighteen years of age.

242. All applicants for any grade of certificate should be examined orally. The language of Section 1773 is explicit. The Board must determine what proportion of the whole number of credits they will allow for the oral part.

243. When a school certificate is granted by the County Board of Education, or by a majority thereof, it is the

duty of the County Superintendent to affix the seal and his signature thereto, and this he may be compelled to do by mandamus. (Attorney-General Johnson, Jan., 1889.)

244. A certificate granted to a person under the age of eighteen years is altogether illegal. Section 1704 of the Political Code is specific, and there should be no evasion of its requirements. The Board of Education would have no right to renew such a certificate.

245. A temporary certificate cannot legally be issued on a county certificate of any other State.

246. First grade and grammar grade certificates are equivalents; and according to Section 1775 of the Political Code, any County Board has the power to grant a grammar grade certificate upon a first or grammar grade of another county.

247. A person holding two certificates from a County Board goes before the Board of Education of another county and receives a temporary certificate on one of them. At the succeeding examination, having failed to pass, he presents his second certificate and demands a second temporary certificate. According to Section 1543, subdivision 7, he is not entitled to a second temporary certificate.

248. County Boards of Education may make such restrictions within the law, in the matter of granting certificates, as they deem best; but it would be neither just nor wise to issue a certificate without examination, to the holder of a California Normal School diploma, who is a resident of the county, and refuse to issue one to the holder of such a diploma who is not a resident. The matter of residence has nothing to do in determining the qualification of a teacher, or the issuance of a certificate.

249. An applicant for a primary certificate should pass an examination in *all* the studies mentioned in Section 1772 of the Political Code.

250. Lapsed certificates have no value whatever; they are dead, and cannot be renewed. Boards of Education have no power to restore life.

251. It is not necessary for those who desire to teach in the cities of the State to hold county certificates, nor is it

necessary for the County Board of Education to approve the certificates issued by the City Board of Education.

252. There is no law that continues a certificate, of any grade, in force beyond the time specified in Section 1771 of the Political Code, unless the same shall have been renewed prior to the expiration of the time for which it was granted.

253. All teachers must hold certificates corresponding in grade with the grade of the school in which they may be teaching.

254. No one can be permitted to teach in any public school, either as a regular or substitute teacher, unless he is a holder of a legal certificate in full force during the entire time of employment. The certificate must be filed in the office of the Superintendent by the teacher prior to taking charge of a school, or a class in any school. Whilst the law is silent in regard thereto, I am of opinion that temporary substitute teachers need not be required to file their certificates; but they must be the holders of certificates.

255. No City or County Board of Education, under Sections 1792 or 1775, can grant any kind of certificate upon a high school certificate of any State, except California.

256. Boards of Examination have no right to include high school branches in the examination of teachers for the grammar grade certificates. It is the presumption of law that teachers are to be examined upon the branches that legitimately belong to the grade of schools in which they desire to teach.

257. I am of opinion that the Act of 1875–6, in relation to schools in Trinity and Shasta counties, is repealed by Section 1696, Political Code, which provides that "every teacher in the public schools must first, before assuming charge of a school, file his or her certificate with the County Superintendent." (See Statutes of 1891, p. 161.) Of course, the certificate must be of as high a grade as the school. A statute in this State can be repealed by implication. (Attorney-General Hart.)

258. It is legal to employ a teacher in city schools who holds a county certificate. In cities having special de-

partments, holders of county certificates may be examined by City Boards in the special studies of such departments.

259 No City or County Board can grant any kind of certificate upon an expired certificate.

260. No teacher can be legally employed in any school, or permitted to teach in any school, who is not the holder of a certificate corresponding in grade with the grade of the school or class. Whether the teacher be employed upon salary or not makes no difference. Every teacher, before assuming charge of a school, whether as Principal or Assistant, must file his certificate with the Superintendent; and it matters not whether the teacher is to receive any compensation or not. Officers having authority to employ teachers cannot nullify the law. It was intended by the requirement of a certificate of qualification to guard against the squandering of a sacred public fund upon persons assuming to teach without being capable of performing a teacher's duties, and to insure the employment of competent persons only as teachers, thereby making the schools useful as instruments for the education of the young. An officer who, either expressly or by implication, sets at defiance, or waives an express statute, defining and limiting his official authority, violates his oath of office, and renders himself liable to be proceeded against for malfeasance in office.

261. In cities, city certificates, or any certificates which authorize the holders to teach in cities, must be filed in the office of the City Superintendent.

262. Every teacher employed in the public schools must be a holder of a valid legal certificate, in full force during the whole period of employment. No one can be permitted to teach, even gratis, in any public school, or to assist the teacher in charge of the school, unless such party is the holder of a certificate in full force. The certificate must be filed with the Superintendent. The Trustees cannot legally draw an order for the payment of any teacher who is not the holder of a certificate. Nor can they add to the salary of a teacher in order to enable such teacher to employ an assistant. In all such cases the Superintendent should decline to issue a requisition upon the County Auditor.

263. Sections 1775 and 1792 do not authorize Boards of Education to grant certificates upon any kind of certificates from other States.

264. By the terms of the Constitution of the State, County Boards of Education have the entire control over the issuing of certificates. They may adopt whatever standard they deem expedient. They cannot compel any one, of course, to pass an examination; but they may, if they think proper, refuse to grant or renew any certificate, unless the required examination is passed.

265. No party can be employed to teach vocal music or any other branch in the public schools, unless such party is the holder of a legal certificate in full force. The certificate may be either regular or special.

266. There is nothing to hinder a County Board of Education from granting a certificate upon a State Normal School diploma of any other State; and certainly there is nothing to hinder a County Superintendent, when authorized by his County Board of Education, from granting a temporary certificate upon any credential that can be recognized by the County Board of Education.

267. A temporary certificate can be granted only once to any party *in the same county.* This is the rendering that has usually been given to Section 1543, subdivision 8. The law is silent as to whether or not a party who has had a temporary certificate granted in one county can afterward have a temporary certificate granted in another county.

268. According to subdivision 7 of Section 1543, the County Superintendent has power to issue a temporary high school certificate to the holder of a high school certificate from another county in this State.

269. State certificates of other States cannot be recognized as credentials upon which to issue any kind of certificate in this State.

270. A County Board cannot grant a certificate of any grade to any party without examination, except as provided in Section 1775 of the Political Code. This section does not authorize the recognition by any Board of any kind of diploma from any institution outside the limits of the United States, nor of any institution within the limits

of the United States, unless such institution has been accredited by the State Board of Education of this State as being of the same rank as the University of California.

271. In granting special certificates, the Board of Education must indicate upon the certificate the special branch which it authorizes the holder to teach; and the holder is not authorized to give instruction in any other branch than that indicated in the special certificate. (See Section 1771, subdivision third, subhead 3, of the Political Code.)

CERTIFICATES, HIGH SCHOOL.

272. High school certificates granted to holders of grammar school course certificates, in lieu of the latter, should be for the period of six years and not for the remainder of the time which the grammar school course certificate may extend prior to its expiration. The high school certificates should be granted by the Board that granted the grammar school course certificate, though there is nothing in the law which hinders any Board from granting them.

273. It is the intention to grant high school certificates to those parties who hold grammar school course certificates, and the parties who hold grammar school course certificates *shall* be entitled to the high school certificates. The matter was discussed in the Committees on Education in both houses of the Legislature, and it was understood and intended and *expressed* at the time that the grammar school course certificates were the full equivalents of high school certificates, and that, therefore, the parties holding them should be entitled to receive high school certificates in lieu of them. Rights acquired under the grammar school course certificate could not be taken away, and the Legislature simply agreed that high school certificates should issue in lieu of them. There is nothing said in the law in reference to extending the time for which such high school certificates would be valid, but it was understood and intended that the high school certificates should be granted for the full time for which such certificate could be granted under the law, that is, for six years.

274. Boards of Education have the power to issue certificates upon normal school diplomas and to fix the grade thereof. It has never been customary, however, in this

State, for any Board of Education to issue high school certificates upon those diplomas, nor would it be wise to do so. Boards of Education should require all applicants for high school certificates to pass examination in all studies required by the County or City Boards for high school certificates not included among those required for grammar school certificates.

275. When a Board of Education grants a high school certificate upon a grammar school course certificate, the latter should not be returned to the party to whom it had been issued, but it should be canceled and filed in the office of the Superintendent as a voucher for the issuance of the high school certificate.

276. Teachers holding county high school certificates, but not holding a city certificate, can be Principals of a city high school, unless there are special studies to be taught by them. In that case they "may be examined by the City Board of Examination in the special studies of such department." (Statutes of 1891, p. 163; Sec. 1775, Political Code.) First Deputy Attorney-General Layson.

277. The issuing of a high school certificate upon a normal school diploma is manifestly illegal. (See Section 1775 of the Political Code, as amended March 23d, 1893.)

CERTIFICATES, RENEWAL OF.

278. In the renewal of certificates, it would seem highly proper that an examination should be required in branches of study inserted in the law subsequent to the issue of such certificates.

279. A lapsed certificate—one that has completely expired—cannot be renewed. It was for a stated period; its time having run out, it no longer has validity or life; it does not exist.

280. A second grade certificate cannot be renewed after it has expired. When a certificate is once allowed to expire it is then dead forever, and the holder must begin over again, the same as if he had never held a certificate.

281. There is no law providing for the renewal of an expired certificate. Such a certificate is of no value whatever except to show the time during which it was a legal credential.

282. The matter of renewing certificates is entirely in the hands of the County Board of Education, and they can make such rules for the renewal of certificates as they think best. It is eminently proper to require an examination in the additional studies, since these studies are now to be taught in the schools.

283. A renewed certificate is practically a new certificate, and it has always been so considered. True, it is not a certificate obtained upon examination, but it is a certificate obtained under Section 1775. The Board takes precisely the same steps under that section to renew a certificate as they would were they about to issue a certificate upon the credentials named therein. The applicant is an applicant for a certificate upon a credential held by him and upon presentation of which the Board is authorized to grant him a new certificate, if they think proper to do so. This may be done either by *renewing* the old one or by granting him an entirely new one on a new paper. There can be no reason why the applicant should not pay the required fee. The applicant gets the benefit of that fee either from the Teachers' Library or from the Institute, to both of which he ought to contribute this very small fund for the privilege of having his certificate renewed.

284. The State Board of Education has not at any time adopted a rule to the effect that second grade certificates should not be reissued. This is a matter of law and the State Board have no authority for passing such a rule. They have adopted a rule to the effect that Educational Diplomas will not be renewed.

285. The renewal of a certificate which has not expired is entirely within the option of the Board of Education of the county or the Board of Examiners of a city. Boards cannot be compelled to renew certificates.

286. Parties desiring to have their certificates renewed must file them and make application for renewal prior to the time of expiration. If this is done the certificate will not lapse in consequence of failure of the Board to act prior to the expiration, the filing of the certificate and the application for renewal retaining the vitality of the certificate.

287. It has frequently been decided by this office that a

renewed certificate is to all intents a new certificate, and that the fee of two dollars must accompany every application for renewal of certificates.

288. The matter of renewal of certificates is, under the law, entirely under the control of the County and City Boards of Education. They may or may not renew, as in their judgment the interests of the schools may demand. Common sense and common justice, however, would suggest that a refusal to renew should be predicated upon good grounds, and not upon any personal bias.

289. In case of refusal to renew a certificate, the fee which accompanied the application for renewal should be returned to the applicant.

290. If a certificate has been filed in the office of the Superintendent for renewal prior to the time of its expiration, the County or City Board have the right to renew it although it may have expired prior to their next meeting.

291. There can be no question of the fact that, if a certificate has been filed for renewal prior to its expiration, the County or City Board can legally renew it.

292. A certificate granted under the statutes of 1891 for three years, must be renewed or filed for renewal before the expiration of the three years. When renewed it may be renewed for the period of *six* years.

CERTIFICATES, REVOCATION OF.

293. Before a teacher's certificate is revoked, he should be notified by the Board of Education that they intend to consider the matter of its revocation. They should present him with written copies of the charges against him, and give him all of the time necessary to prepare for his defense. He should be confronted with the witnesses against him, and be permitted, in person or by attorney, to cross-examine them. The fact that a member of the Board is familiar with the facts will not disqualify him from passing upon the case if he acts in accordance with the oath that he has taken. If a teacher is habitually drunk, this will be a cause, perhaps, for the revocation of his diploma or certificate; but cases of habitual drunkenness seldom exist, if at all; and the question whether the teacher is drunk to a sufficient extent to have his certificate taken from him will have to be passed upon by the

Board. At any rate, the person against whom the charges are made should have every opportunity to make his defense; for to narrow his opportunity for defense savors of tryanny, looks suspicious, and is contrary to the foundation principle of American justice.

294. If the certificate of a teacher is revoked, the State Board of Education will revoke the diplomas of the accused, unless he shows, within ninety days, a good reason why they should not take such action.

295. If a teacher is guilty of immoral or unprofessional conduct, the County Board should revoke whatever certificate may have been granted him in that county; and they should appeal to the State Board to revoke any State diploma that he may hold.

296. A County Board can revoke only such certificates as have been granted by themselves. They cannot revoke life or educational diplomas. This is the province of the State Board.

297. Certificates can be revoked only for immoral or unprofessional conduct, or incompetency; and in order to do this regular charges must be preferred and a legal investigation carried on. Hence, if a teacher applying for a grammar grade certificate takes the whole examination over again (even though he has already secured a primary or grammar grade), in order to raise his standard, and fails, his former certificate will not be revoked.

298. If a County Board of Education has revoked a county certificate granted by them on a life diploma, issued previous to 1880, the holder can still teach and legally receive his salary. If any teacher has received the penalty for immoral or unprofessional conduct, etc., in the revocation of his county certificate, the Board which revoked the certificate should have brought the matter to the attention of the State Board and reported their action with regard to the county certificate, so that the life diploma might also be revoked. While any one holds an unrevoked life diploma he is entitled to its privileges.

299. County and City Boards of Education have no right or power to revoke a certificate without the knowledge of, and without due notice to, the holder thereof. No court in the land would sustain such an action.

CERTIFICATES, SPECIAL.

300. While I think the granting of special certificates to teach such studies as must be taught is not to be encouraged, but should be held to apply more properly *to such studies as are not in the established curriculum*, yet I think the power is given to County Boards of Education, whenever they think it advisable, to grant special certificates. The County Boards have power to grant special certificates valid for three [now six—J. W. A.] years, which will entitle the holder to teach such special branches as may be required by City or County Boards of Education. The wants of the schools may be such as to require reading and elocution to be made special branches. Ordinarily it may be otherwise. (Attorney-General Johnson, May, 1890.)

301. It never was the intention of the law that special certificates should be granted, except when specially necessary. Such certificates should not be granted, except in such branches as are not ordinarily, and under the law, required for regular certificates. To grant these certificates in music, drawing, reading, physics, etc., would not be proper, except when the special occasion renders it necessary in the conduct of the school in which such studies are specially assigned, or when teachers are assigned to special work, as, for instance, high schools in which the work is distributed in certain departments. If the granting of such certificates is not closely confined, we shall soon see the State overrun with a class of specialists, to the great detriment of the schools.

CHINESE CHILDREN.

302. According to Section 1662 of the Political Code, Trustees of schools must either form separate schools for Chinese children or else the Chinese children must be admitted into the schools along with the white children. By reference to the case of Tape v. Hurley, 66 Cal., 473, it will be seen that the Supreme Court has decided that Chinese children, born in this city, must be admitted to the schools, unless separate schools are maintained; see also, Section 1662, which implies that all Chinese children, whether born in this country or not, should be admitted to the schools.

CLAIMS, OUTSTANDING.

303. The Trustees are right in refusing to pay an indebtedness that accrued last year out of funds of the current year.

304. When there is a balance in the County Fund, after an eight months' school has been maintained in a district, such balance may be used to pay outstanding claims for that year; or it may be used in maintaining schools for the subsequent year; the balance, unless used to pay outstanding claims, must be governed by the same rules as apply to other funds of the year succeeding the one in which it occurred as a balance.

CLERK, SCHOOL.

305. The Trustees have no right to employ an outside person as Clerk of the Board, and there is no fund to pay for such service.

306. An election for Clerk of the Board of Trustees can be legally held only on the first Saturday in July. If the Clerk is not then elected the Superintendent must appoint one.

307. A Clerk of a Board of Trustees can resign if he choose to do so; and he would still remain as Trustee, unless he choose to resign from that position also.

308. The Clerk of the Board of Trustees is the proper party to serve all notices of any action of the Trustees. Teachers need pay no attention to orders given by individual Trustees.

309. When a legal holiday falls upon a Saturday the act appointed to be done can be done on the Monday following. (See Section 13 of the Political Code.) The election of District Clerk in such a case would be properly held on the Monday following the legal holiday.

310. The Clerk of the Board of Trustees has not the right to purchase wood or any other articles, except such as are ordered by the Board of Trustees; and, according to the law, all business of the Board must be done in regular or special session. Trustees have a right to use the County Fund after an eight months' school has been maintained for the purpose of painting or repairing the school building or for that of improving the school property; but this is a very different thing from laying in an advance

supply of wood because it can be procured a little cheaper by so doing. And the matter of painting or of improving the school property is one for the Board to determine in regular or special meeting, and not to be determined upon the curbstone or by the Clerk of the Board of Trustees. No individual of the Board of Trustees can do anything; action must be authorized by the Board by a majority vote and in a regularly held meeting. (See the last part of Subdivision 1, Section 1617.)

311. A vacancy occurring in the position of Clerk of the Board of Trustees by reason of the non-residence of the party elected to that position, or for any other reason, must be filled by the Superintendent of Schools. The Board of Trustees can elect a Clerk only on the first Saturday of July.

COMPULSORY EDUCATIONAL LAW.

312. The Compulsory Educational Law, approved March 28, 1874, is still upon the statute books of the State, but its provisions have never been enforced.

CONDUCT, UNPROFESSIONAL.

313. Gambling in saloons continuously constitutes immoral and unprofessional conduct; and such a charge, if sustained, will justify revocation of certificate, whether the holder is engaged in a private or a public school, or in any school. The Board has power over all certificates issued by them, so long as they are in force.

CONTRACTS.

314. A teacher entered into a written contract with a Board of Trustees to teach a school for six months, commencing July 12th, 1880. The Trustees, without consulting him, ordered a vacation of one week, for which time they did not intend to pay him. Attorney-General A. L. Hart, being applied to for his opinion, gave it thus: "In the case stated the teacher is entitled to pay during the vacation ordered by the Trustees of the district, unless he consented to the action of the Trustees declaring a vacation. The consent of the teacher in such a case, if not expressly made, might be implied from his acts at the time; if he did not consent, his salary goes on the same as if there had been no vacation."

315. Trustees cannot legally make a contract with a teacher to extend beyond the 30th day of June next succeeding; nor can they make a gift of school moneys to a teacher under the name of back pay; but within the limit of time mentioned in Section 1617 of the Political Code, the Trustees may contract to pay a teacher any sum they may see fit; which sum, of course, must not exceed the school money apportioned to the district for the school year.

316. Not only are the Trustees of a school district prohibited by Section 1876 of the Political Code from contracting with the Board of which they respectively are members, but it is a well settled rule of the common law that no member of a Board of that kind can contract with the other Trustees as such. (Attorney-General A. L. Hart, 1881.)

317. Section 1876 of the Political Code forbids any Trustee from rendering any services whatever that are to be paid for by the Board of which he is a member.

318. If at the time a teacher entered into a contract with the district to teach, there was money to the credit of the district equal to or greater in amount than the amount which was to have been paid to the teacher for his services under the terms of the contract, the district is liable to the teacher, no matter how the money may have been afterwards expended. The fact that the Trustees may have used the money to purchase desks, or that they have used the whole or any portion of the money for any purpose whatever, will not relieve them from liability to the teacher.

319. If the Trustees of a district enter into a contract with a teacher to teach both before and after a vacation declared by them, and by any act of theirs the teacher is prevented from teaching after the vacation, they are liable to the teacher for the term which the teacher was to teach after the vacation, according to the terms of the contract.

320. There is nothing in Section 1876 to prevent a father from voting for his daughter for the position of school teacher. The word "interest," in that section, does not mean the personal interest which a father has in his daughter.

321. If an agreement is made between the Trustees and a teacher to the effect that the teacher was to teach for eight months at the rate of $50 per month, the teacher can be paid at no higher rate up to the time a new agreement is made. If, at a subsequent time, they make a new agreement to pay the teacher at the rate of $55 per month, they must pay at that rate from and after the date of the new agreement. But they cannot pay the teacher more than $50 for services which were performed prior to the date of the new agreement.

322. No contract can be made by Trustees with a teacher to extend their desire to pay her $55 thereafter for her services beyond the 30th day of June following. But if two of the Trustees tell the teacher in July that it is their desire to pay her $55, and she consents to the arrangement, tacitly or otherwise, they must from and after that date pay her $55 during all the months through which the arrangement is to extend. A resolution passed afterwards cannot add greater strength to the matter, for the vote of two members settles it. "Words giving a joint authority to three or more public officers, or other persons, are construed as giving such authority to a majority of them." (Section 15, Political Code.)

323. If a Trustee is pecuniarily interested in his daughter's salary, the contract by which she is employed is illegal, but not otherwise.

324 If the Trustees of a district discharge a teacher without cause, before the termination of the time covered by the contract, they must pay for the full time covered by the contract, if the teacher is at all times ready and willing to teach.

325. No School Trustee must be interested in any contract made by a Board of which he is a member. (Section 1876, Political Code.) Under this section no Trustee could be paid for services as Census Marshal. There could be no objection to gratuitous services rendered by a Trustee as Census Marshal.

326. The Clerk of a district has no power to make a contract with a teacher; the contract must be made with the Board of Trustees, and any action taken by the Clerk without the knowledge and consent of the Trustees will

not amount to a contract. A teacher must depend for his pay upon the contract entered into between himself on the one part and the Board of Trustees on the other.

327. Under Section 1623, Trustees are not liable, *as such*, on contracts made in excess of the school moneys on hand, and under the third subdivision of Section 1543, the Superintendent could not draw a warrant upon an order made by them when there is no money in the fund to pay it.

328. A verbal contract is as binding as a written contract, when made between Trustees and teachers. There is no difference between them; one is as binding as the other. If the Trustees order the school closed during what they consider to be an epidemic, floods, etc., and this happens during the period over which the contract extends, they must pay just as if the teacher had taught.

329. A district by law is not liable when the officials overrun their funds for the year. The policy of the law seems to be to require those who contract with Trustees to assure themselves all along that there are sufficient funds on hand.

330. A verbal contract is as binding as one in writing. Hence a teacher employed under a verbal contract is entitled to pay for the weeks during which the school was closed by the Trustees, because of scarlet fever in the district, unless such teacher agreed at the time of making the contract or afterwards, to forego pay in case of such an emergency.

331. A contract made by Trustees with a teacher for one term is binding for the full length of the term; to dismiss a teacher before the end of the term, if such teacher has complied with her part of the contract, would be illegal, and the Trustees, even if they do dismiss her, are bound to pay for the whole length of time for which the contract was made.

332. A contract need not be written, a verbal one, when proven, is just as binding.

333. Two Trustees can make a contract at any time, if the other Trustee has been duly and properly notified.

334. The fact that one of the Trustees of a school district is the father of the teacher will not prevent the

teacher from drawing pay for his services; nor does this relationship make the Trustee an interested party in the contract in the sense used in Section 1876 of the Political Code.

335. The right of a teacher to pay for the whole period covered by the contract cannot be destroyed by any act of the Trustees. If the teacher is ever ready and willing to teach, the Trustees must pay for the whole time covered by the contract; and if they order the school closed for several days, the teacher must be paid for those days as well as for the rest of the time. This decision is founded upon the very nature of contracts—the fundamental laws in relation to them—and it is the law not only of this State, but it is the law of the United States, and of the whole civilized world.

336. Teachers are entitled to their pay, unless they refuse or fail to fulfill their part of the contract. If schools are suspended on account of prevailing epidemic, the teachers, being ready and willing to teach, it was not their fault that they could not do so. An epidemic is a public calamity, but it should not be visited specially on the teachers. The law treats the unfortunate district precisely as if school had been in progress by giving to the district, during the time of the suspension of the school, the usual amount of money to pay the teachers and for other lawful purposes.

337. When the Trustees of a school, in writing to a teacher, state that they will give her their school for the coming term, and in the course of the correspondence they specify the time of commencing, the length of the term, and the compensation or salary, and the teacher accepts the school with the conditions, the contract is complete. The teacher is entitled to her pay if she teaches during the whole term, or if, being ready and willing to do so, she is prohibited or prevented from doing so by the Trustees.

338. A contract when valid is binding, and the courts will enforce it.

339. The fitness of a teacher is pledged by the County Board of Education; it is that Board which licenses a teacher, or withdraws the license for the reasons prescribed

in the law. The Trustees may select from those bearing valid certificates; but having once made a contract they are bound by it.

340. All contracts must be complied with. If the Trustees employ a teacher to open school October 1st, they must pay him from that date, although, by building a new school-house, they prevent him from opening until November.

341. If a contract was entered into on the 31st of July and signed by two of the Trustees of the district, they must either employ the teacher and permit him to teach for the term, or pay to him the full amount agreed upon for the whole period covered by the contract. The fact that one of the Trustees who signed the contract has resigned does not alter the matter, nor does the employment of another teacher affect it.

342. A teacher commences a school with only a verbal agreement with the Trustees. A contract was drawn, to which the Trustee employing the teacher gave acquiescence, but the contract, through negligence, was never signed by the Trustees. Held that if the verbal contract was entered into at a regular meeting of the Trustees and was agreed to by a majority of them, it would hold good. The School Law places the employment of teachers wholly in the hands of the Trustees.

343. The law does not compel Trustees to give a written contract to a teacher, but a teacher is entirely justified in asking for such a contract. The refusal of such a contract would seem to throw a reflection upon the intentions of the Board of Trustees. It is a matter of business and would seem to be right for both parties.

344. The law specifically and totally forbids Boards of Trustees making any contract with teachers for the coming year.

345. A teacher offers, in writing, to teach a certain school for $80 per month and donate $60 to the school district, or for $75 per month and donate $30. I am of opinion that this is a direct attempt at a bribe; that it is against public policy, as some Trustee might be induced to employ an incompetent teacher, or a less competent one. by such an offer; and that such course is, on the part of

the teacher, unprofessional. The Trustees could not enforce the contract and force the teacher to pay the commission.

346. A contract may be rescinded at any time by a majority of the parties making the same, and new terms may be agreed upon. A teacher who had contracted to teach a school at $80 per month might have her salary raised to $90 per month, by a majority vote of the Board of Trustees, after having taught for any length of time upon the former rate.

347. A contract with Trustees binds their successors within the limit of the period covered by the contract, which contract cannot extend beyond the thirtieth day of June next ensuing the making of the contract.

348. A teacher employed under contract by Trustees whose places have subsequently become vacant cannot be dismissed by Trustees appointed to fill the vacancies, except upon charges of incompetency or unprofessional conduct, duly preferred and sustained after appeal to the Superintendent, if the accused party desires to make appeal.

349. If a teacher employed under contract is unlawfully dismissed, the Trustees are liable for the salary for the period covered by the contract.

350. If a teacher is employed under contract, at a stated monthly salary, such teacher can justly claim salary at the expiration of every four school weeks, unless the contrary is specified in the contract.

351. If a teacher has been employed under contract, the Trustees cannot dismiss her prior to the expiration of the time specified in the contract, except upon charges of incompetency or unprofessional conduct duly preferred and sustained, and after she has had her right of appeal to the Superintendent.

352. When a teacher is employed without a written contract and the time is not definitely specified, the Trustees can terminate the employment of such teacher at any time. The mere declaring of a vacation would not end the term of employment; on the contrary, it would indicate that the engagement had not been terminated.

353. A teacher can hold the Board of Trustees respon-

sible for his salary for the full time for which the contract was made, whether said contract be oral or written, unless he is dismissed, after due investigation, for proper cause.

354. If a teacher is engaged to teach a school so long as the funds of the district will meet the expenses of the school, the Trustees cannot dismiss him prior to the time the money in the fund is exhausted, except for proper cause. The terms "so long as the money of the district will hold out" are sufficiently definite in establishing the time for which the teacher is employed; provided the time does not extend beyond the thirtieth day of June following, and provided also that the monthly salary must be fixed.

355. A teacher under contract to teach for a definite time, whether the contract be *oral* or *written*, cannot be dismissed, except for good cause. If the teacher is dismissed the Trustees, as such, are liable for his salary.

356. Section 920 of the Political Code clearly forbids any Trustee or other officer to be interested in any contract made by themselves in connection with the schools.

357. Section 920 of the Political Code forbids any officer's being interested in any contract made by himself as such officer, or made by any Board of which he is a member. If a Trustee is pecuniarily interested in the employment, or receives the compensation for his son's services, the son being a minor, said Trustee acts in violation of said section, and can be held responsible for malfeasance in office.

358. If the Trustees of a district dismiss a teacher prior to the expiration of the time for which they have contracted with him, without proper cause, said teacher can hold said Trustees responsible for his salary for the entire time covered by the contract; but he cannot hold them responsible as individuals.

359. It is not necessary that there should be a written contract between teacher and Trustees. An oral contract will answer every purpose, and it is just as binding in law; but in case of trouble the oral contract would have to be proven, whilst the written is evidence of the best kind in itself.

360. If a teacher under the oral contract is dismissed without cause, prior to the expiration of the time for

which he was employed, he can, by suit at law, recover salary for the entire time.

361. A teacher, whether employed under oral or written contract, cannot be dismissed legally, except upon charges duly preferred and sustained, after having had opportunity to be heard in his own defense.

362. Members of a Board of Education or of a Board of Trustees must not be interested in any contract made by the Board of which they are members. A violation of this section would, upon complaint, be a sufficient cause for removal from office.

COURSE OF STUDY.

363. It is the duty of the County Board to prescribe a course of study, and it is the duty of teachers and Trustees to enforce the course adopted. It is the duty of pupils to follow the course prescribed.

364. All teachers in the schools are expected and required to teach those branches which are designated in the law. They must follow the course of study adopted by the County Board of Education. Upon failure to do so the Superintendent has the legal right, under Section 1700 of the Political Code, to withhold his signature to a warrant for their salary. (See Section 1696 of the Political Code.)

365. The adoption of a course of study is entirely in the hands of the County Boards of Education or of the City Board, if there is one. The course of study is not determined with reference to the State University, farther than that it is desirable that the course of a high school should be such as, when successfully completed, would entitle the graduates to enter the university, or rather, enable them to do so.

366. There is no law authorizing the County Board of Education to adopt a post graduate course.

367. The adoption of a course of study for high schools being provided for in the High School Acts, passed by the late Legislature, the County Boards cannot adopt a course therefor, except as provided in those Acts.

368. County Boards of Education cannot engraft high school studies upon the course of study for grammar

schools. Could they do so, there would have been no necessity for the passage of the High School Bills by the Legislature.

369. Section 1771, Subdivision 4, makes it the duty of the County Board of Education to prescribe and enforce a course of study in the public schools of their respective counties.

370. It is the duty of teachers to observe and enforce the course of study adopted by the County Board of Education in their particular schools; and it is the duty of Principals to see that the course of study is enforced, both in their own rooms and in those of the assistant teachers.

371. Teachers are not at liberty to go beyond the course of study adopted by the County Boards.

372. There is nothing in the law that will authorize a County Board of Education to establish a post-graduate course in the grammar schools, whether a high school has been established or not.

DEPUTY SUPERINTENDENT OF SCHOOLS.

373. There is no law requiring the deputy of a County or City Superintendent to be a teacher; but it is difficult to see how the deputy to a Superintendent can manage without being a teacher.

374. If the County Superintendent is absent from a meeting of the County Board of Education, his deputy has the right to act in his place, and exercise all the powers that belong to him. (See Section 865 of the Political Code.)

DICTIONARIES.

375. If a school has no dictionary, the Trustees not only have the right, but it is their duty to purchase one. A dictionary is part of the *necessary furnishing* of a school.

DIPLOMAS OF GRADUATION.

376. The only provision of law concerning the granting of diplomas of graduation from the public schools is that contained in Subdivision 7 of Section 1771 of the Political Code. It is in the hands of the Board to determine what the examination shall be, how it shall be conducted, and by whom. In some counties the Principal reports to the Board, through the Superintendent, the names of those whom he considers entitled to receive diplomas, and the

Board appoints one or more of its members a committee to visit the school and examine those recommended, the examinations being conducted partly in writing and in part orally.

377. County Boards of Education have power, under Subdivision 7 of Section 1771, to issue diplomas of graduation from any of the public schools of the county; which diplomas shall be designed by the Superintendent of Public Instruction and distributed as other blanks from his office. Diplomas shall be issued only to pupils who have passed an examination prescribed by the County Board of Education. These diplomas shall be signed by the President and Secretary of the County Board and by the Principal of the school. The County Board should make all necessary provisions for such examinations—nothing will do more to create a spirit of emulation in the schools of the county. If the Board, as a whole, cannot attend to it, then a committee should be appointed to take charge of the examination; and the traveling expenses of such committee ought to be allowed by the Board of Supervisors.

378. The Principal of a public school has no authority to grant diplomas of graduation to pupils completing the course of study therein until their right to graduate has been determined by the Board of Education; nor can the Principal promote pupils from one grade to another without the authority of the Board of Education.

DIPLOMAS, LIFE AND EDUCATIONAL.

379. The State Board of Education sits as a court in considering the revocation of diplomas, and will act only upon legally certified evidence, and after the accused has been duly notified and allowed an opportunity for defense.

380. A diploma from the Hastings' Law School does not come within the meaning of "California State University Diploma," as used in Section 1775 of the Political Code.

381. It is not necessary that the experience in teaching required to be had by applicants for educational or life diplomas should all be in this State. It is necessary, however, that an applicant claiming an experience, part of which is in another State, should present to the local Board entirely satisfactory proof of such experience, and

that it was successful experience. The mere statement of the applicant is not sufficient. Moreover, the Board should be fully satisfied of the worthiness of the applicant, in all respects, before passing the resolution of recommendation. The certified copy of the resolution of recommendation is, to the State Board, *prima facie* evidence of the worthiness of the party recommended, and is the paper filed as the voucher for the diploma issued.

382. A life diploma, granted prior to the adoption of the new Constitution, confers upon the holder vested rights which cannot be taken from him by the State. This diploma entitles the person to whom it was granted to the highest honors of the profession and to teach in any public school in the State.

383. It is not necessary for a teacher who holds a life diploma, granted by the State Board of Education prior to the adoption of the New Constitution, to apply to a Board of Education for a certificate to teach. The life diploma authorizes a teacher to teach in any county of the State.

384. The holder of a life diploma, granted prior to the adoption of the New Constitution, can continue to teach, even though his certificate may have been revoked.

385. If a document has all the qualities of a life diploma, and confers on the holder all of the powers which are conferred by a document designated on its face as a life diploma, it is a life diploma, even if the words "life diploma" are not on its face.

386. Applicants for life and educational diplomas should give their names and surnames in full, correctly spelled and plainly written. Ladies should see that the title Miss or Mrs., as the case may be, should be given. Those with the title *Mrs.* should give also their surnames before marriage. These requirements are necessary in order to avoid confusion and trouble.

387. A County Board of Education may with propriety recommend, for either a life or an educational diploma, a person who has not resided in their county for a year or longer, provided they can certify to all the requisites specified in Subdivision 4 of Section 1521 of the Political Code.

388. The State Board of Education will grant an educational or life diploma to a person who has taught success-

fully for the period of time prescribed in the law. The law requires the experience to have been successful. The County or City Board are to judge of the matter of successful experience in the first instance, when they recommend or refuse to recommend a teacher for a diploma.

389. A County Superintendent ought not to require the presentation and custody of a life or an educational diploma when *satisfactory* evidence is offered that the applicant is the holder of such a diploma.

390. A person who, holding a first grade Sacramento certificate, goes to Placer County and teaches on a second grade Placer County certificate for five years, has complied with the statute sufficiently to obtain a recommendation for an educational diploma, if the County Board are satisfied that the experience obtained has been sufficiently successful. Some of the requirements of the Code have been satisfied. The applicant has held a first grade certificate one year and has taught five years. The question as to the degree of success is for the County Board to decide.

391. It matters not what Board makes the recommendation for an educational or life diploma.

392. The State Board of Education has no power to renew educational diplomas which have been granted by them.

393. The time spent at the State Normal School or at the State University has never been held by this office or by the State Board of Education to constitute a part of the time during which a teacher must be engaged in teaching before a life or educational diploma will be granted.

394. The holder of an educational diploma cannot have it renewed. If such a diploma could be renewed, it would become equivalent to a life diploma. There is no authority in law for the renewing of an educational diploma.

395. Holders of expired certificates cannot be recommended for life or educational diplomas.

396. Seven months is considered a school year for the purpose of granting life or educational diplomas. A person to be entitled to an educational diploma must have taught not less than thirty-five months, and the thirty-five

months must cover a period of not less than five *calendar* years.

397. A year passed in teaching while a normal school pupil cannot be considered as one of the five years necessary to have taught before receiving an educational diploma.

398. A second grade or a primary certificate has no bearing on the issuance of a State diploma, either life or educational. And an expired certificate is of no value either, as the State Board has decided not to grant diplomas on such certificates.

399. An applicant for an educational diploma, to cover the law, should have taught at least a total of thirty-five months in a period of not less than five calendar years.

400. The term "life diplomas," in Section 1775 of the Political Code, embraces life diplomas of other States as well as those of California.

401. Prior to 1880 there was a section of the Political Code, 1754, which read: "The holders of diplomas are eligible to teach in any public school, except in high schools in which languages other than the English are required to be taught by such teachers."

Holders of such diplomas should have the same rights now; that is, the diploma should entitle them to teach in any public school in the State, excepting in high schools where they would be required to teach languages other than the English.

If, under the old law, certificates were granted to holders of life diplomas, such certificates must have been granted by the State Board of Examination under Section 1750 of the Political Code as it then stood. It would seem that the life diploma was a certificate of the highest character, and that the holder thereof could teach without any additional certificate. I would conclude that, while the County Board of Examination may, under Section 1775 of the Political Code, grant a certificate to the holder of such life diploma, the certificate is not necessary to entitle the holder of the diploma to teach in the public schools, and no examination can be required of the holder of such a diploma. (Attorney-General G. A. Johnson, October, 1887.)

402. A party who has taught continuously from 1878 until May, 1887--some 86 months—is not entitled to a life diploma, because the period does not extend over the period of ten years.

403. The State Board of Education understands the requirement for life diplomas to be that the teacher must have taught some time during each of ten years, and in all at least seventy months. The Board requires of applicants for State diplomas a statement of the places where they have taught and the time in each place.

404. State educational diplomas are not renewed by the State Board of Education.

405. Time spent in teaching in a private school has always been counted as a part of the school experience required for educational or life diplomas. (Hoitt, June, 1889.)

406. Our law requires that a grammar grade or a higher county certificate of this State, be held for one year, in addition to the five years' experience, before a teacher becomes entitled to an educational diploma.

407. It was resolved that after September 20th, 1889, no more duplicate State diplomas will be issued. In case of the loss of the original diploma, the Secretary of the Board, the State Superintendent, is authorized to certify to the issuance of the original diploma according to the records of his office. In order to procure this certified statement, an affidavit of the time and manner of loss of the diploma must be presented to the County Board of Education, and they may give a recommendation to the applicant sending affidavit and recommendation to the State office for filing. (State Board of Education, November, 1889.)

408. The time for which a county certificate must be held before applying for a State diploma is a calendar, and not a school year.

409. An educational diploma may be considered sufficient evidence of five years' experience ; though any Board of Education may require a statement of the time and places taught, if they deem it best.

410. An applicant for a life diploma need not have taught

seven months in *each* of the ten years required; but he must have taught *some* in each of the ten years.

411. In order to obtain a life or an educational diploma it is necessary that the months taught should cover a period of at least *ten* or *five* years respectively; *i. e.*, from the time the applicant began to teach until the time of application to the County Board for their recommendation should be the full period of ten or five calendar years, as the case may be. It is not necessary that the applicant should have taught seven months in each of the ten or five years, but the aggregate of months must be seventy for life diplomas, and thirty-five for educational diplomas.

412. Thirty-five months of teaching within a less period than five calendar years does not entitle a teacher to an educational diploma.

413. In order to secure action by the State Board of Education, it is necessary that the years in which and the number of months in each year, should be specifically set forth in all recommendations for life or educational diplomas. Under the amendment adopted by the present Legislature, the applicant for either of these diplomas must make affidavit as to the time specified in the recommendation.

414. A certificate showing that one has had a life or an educational diploma awarded him by the State Board of Education, cannot be issued, unless an affidavit has been filed in the State Superintendent's office showing that the diploma has been lost or destroyed.

415. It is not necessary that seven months should be taught in each of the five or ten years, respectively, required for educational or life diplomas. It is simply required that the aggregate shall be thirty-five or seventy months, but the period of time must extend over five or ten years. This has been the ruling of the State Board of Education and governs in all cases.

416. A grammar school course certificate, if obtained upon examination, is a sufficient credential upon which a County Board may recommend a life diploma of the highest grade.

417. An applicant for an educational or life diploma must have taught *some part* of every one of the five or ten

years respectively required. It is not enough to have taught seventy months in the period of eight years to secure a life diploma, even though it may be over ten years since the applicant first began to teach.

418. In all cases when a recommendation for a life diploma is sent to the State Board of Education it must be accompanied by a certificate of the grammar or first grade, by a high school certificate, or by an educational diploma, and, also, by the affidavit required under the law; otherwise the State Board will not act upon the application.

419. By a regulation of the State Board of Education educational diplomas cannot be renewed.

420. The State Board of Education will grant life diplomas of the higher grade to those persons only who are the holders of valid grammar school course or high school certificates issued in California. The applicant must have taught twenty-one months in California.

421. The State Board of Education, some time ago, passed a regulation that they would not grant duplicate life or educational diplomas. This rule they adhere to strictly unless affidavit is presented showing that said diplomas have been *destroyed*. If any diploma has been *lost*, the Board will grant a certificate, under seal of the Board, representing that upon a certain date a diploma was issued. In no case will any action be taken without the accompanying affidavit.

422. The State Board of Education cannot recognize State certificates of any kind as credentials upon which to issue educational or life diplomas. These diplomas can be issued only in accordance with Section 1521, Subdivision 4.

423. Life and educational diplomas being, according to the decision of the Attorney-General's office, legal documents, the holders thereof, if Boards of Education or Boards of Trustees think proper to employ them, can legally draw their salaries. To enable them to do so, it is necessary to exhibit the diplomas to the City or County Superintendent that a record may be made before taking charge of the school.

424. Educational and life diplomas in California are granted upon presentation to our State Board of Education of proper affidavit of experience and the recommendation of a City or County Board of Education. If a City or County Board, upon a Nevada educational diploma, has granted a certificate, the presumption is that the Board has made the necessary investigation relative to the merits of the applicant, and the State Board would not go back of the recommendation and certificate from the City or County Board granting them.

425. If, after proper investigation, a City or County Board of Education find that an applicant for an educational or life diploma is not fully up to the requirements of our law, it is their duty, no matter what credentials may be presented, or whether the credentials are from our own or any other State, *not to grant the recommendation* for the diploma. Our State Board must base their action on the recommendation of the City or County Boards; and, unless the State Board has positive evidence of improper action on the part of the City or County Board; or, unless the State Board has knowledge of facts supposed not to be in possession of the City or County Board, they will be governed in their action by the recommendation of the City or County Board.

426. Neither educational or life diplomas can be granted by the State Board of Education without a recommendation from a County or City Board of Education.

427. Boards of Education may, or may not, recognize certificates previously granted by them, when application is made to them for a recommendation to the State Board for educational or life diplomas.

428. Educational and life diplomas are valid authorizations to teach in any county of the State. These diplomas need not be filed with the Superintendents; nor need any certificate be filed. All that is required is that the holder of the diploma shall, when employed in any county, exhibit his diploma to the Superintendent thereof. Thereupon the Superintendent is required to record the name of the holder in his office; this will exempt from the necessity of filing any diploma or certificate.

429. *Resolved*, That this Board will hereafter recognize

the credentials upon which the recommendatory life and educational diplomas granted prior to June 2d, 1893, and subsequent to the adoption of the New Constitution, were granted; and that, upon presentation of said diplomas for cancellation, and payment of the proper fee for the issuing of the new, the Board will grant life and educational diplomas under the law as amended by the Legislature, March 23d, 1893. (State Board, September, 1893.)

430. *Resolved*, That hereafter it shall be the duty of the Secretary of this Board to return to the Superintendent of Schools in the respective city or county, all papers accompanying the application of any party recommended by the Board of Education in the city or county, respectively, for a life diploma, an educational diploma, or a Normal document, unless the affidavit accompanying said application distinctly specifies, from the first date thereon to the last date thereon, the time of experience of the applicant; which time shall in no case be less than ten *calendar* years for a life diploma, five *calendar* years for an educational diploma, and two *calendar* years for a Normal document.

*Resolved*, That no application will be considered by this Board, unless the certificate accompanying the application clearly shows upon what the original certificate was granted. (State Board, September, 1893.)

DIPLOMAS, NORMAL SCHOOL.

431. There is no authority given in the law for recognizing the diplomas of private normal schools of this or of any other State.

432. A graduate of a Nova Scotia State Normal School cannot be granted a temporary certificate. According to Section 1775 of the Political Code, the County Board are authorized to grant certificates without examination only to the holders of State Normal School diplomas of other *States*. This means States of our Union. Should such a certificate be granted to a teacher upon such a diploma, and she should teach thereon, it would be unlawful for the Superintendent and Trustees to draw a requisition for the pay of such teacher.

433. State Normal School diplomas are not credentials justifying the issuance of high school certificates without

examination in the additional studies of the high school; nor have they at any time been so regarded.

434. No Normal School diploma from any place outside of the States of the American Union can be accepted as proper credentials upon which to issue certificates to teachers. The law expressly says: "State Normal School diplomas of other States." This restriction is not attached to life diplomas.

435. Under the law as amended March 23d, 1893, nothing higher than a grammar grade certificate can be granted upon a Normal School diploma of this State or of any State.

DIPLOMAS, REVOCATION OF.

436. One of the rules adopted by the State Board of Education is: "That when any County Board of Education shall revoke the certificate of any teacher for unprofessional conduct, and shall notify this Board of such action, the action of the County Board shall be considered *prima facie* evidence that the teacher is unworthy to hold a life or educational diploma, and unless an appeal is taken, within three months, to this Board, then this Board will revoke any diploma that they may have granted to said teacher." This refers to life and educational diplomas of any date.

437. The rule of the State Board is that the diploma of a teacher whose certificate has been revoked by a County Board for unprofessional conduct, will be revoked, unless the teacher appeals from their action to the State Board within three months.

438. The State Board has no printed rules regarding the revocation of diplomas. When charges are preferred against any one, a copy of such charges is served upon the party charged and he is given usually thirty days' time in which to file his answer. The evidence must be brought against the moral character or regarding the moral incompetency of the party. Any parents or patrons of a school can bring charges.

DIPLOMAS, UNIVERSITY.

439. The law does not authorize the recognition of State University diplomas, except in the case of our own State University, and then only when accompanied by a recom-

mendation from the Faculty, unless such universities have been accredited by the State Board of Education as provided in Section 1775 of the Political Code.

DISCIPLINE.

440. When a teacher is incapable of maintaining proper discipline in a school, and the Trustees are not inclined to remedy the matter, the best way is for some of the patrons of the school to make specific charges of incompetency to the Superintendent and Trustees, and to present evidence and ask for the removal of the teacher.

DISEASES, CONTAGIOUS.

441. Teachers have the power by law to refuse admission to the school to any child supposed to be affected with a contagious disease, without the certificate of a physician to the effect that the disease is not contagious.

442. It has several times been decided by the Attorney-General and by the Superintendent of Public Instruction that when the Trustees of a district close the school in consequence of the prevalence of contagious disease, the teacher is entitled to salary during the time.

443. Teachers are entitled to salary for vacations caused by the prevalence of contagious diseases.

DISMISSAL, OF TEACHERS.

444. It is a difficult matter to answer specifically for what causes a teacher, who has a written contract for a given time, may be discharged and his salary withheld. A violation on the part of the teacher of the terms of the written contract would be a cause, whatever the terms might be. Incompetency, immoral conduct, a failure to perform the duties imposed by Section 1696—these would all furnish causes for such dismissal. Recognizing the possibility of a teacher being dismissed, or his salary being withheld unjustly, the Legislature in Section 1698 of the Political Code provided for an appeal by the teachers from the Trustees to the Superintendent.

445. Trustees cannot dismiss a teacher employed for a specified time, except for proper cause. Proper cause may be non-compliance with the provisions of Section 1696 of the Political Code, incompetency, inefficiency or unprofessional conduct. Should Trustees close the school prior

to the time for which the teacher was engaged, they are responsible to the teacher for her salary for the entire time.

446. If a teacher has been employed under contract, or for a definite period under implied contract, the Trustees cannot dismiss her, except for cause. Decrease of attendance forms no factor in deciding whether a teacher should be dismissed or not.

DISTRICTS, JOINT.

447. In joint districts, that is, in districts lying partly in each of two or more counties, the Census Marshal should report to each County Superintendent the *whole number* of census children in the district, and also the number of children in the county of which the party to whom the report is made, is Superintendent. This is necessary, that the Superintendents may properly apportion the school moneys to such districts in accordance with Section 1583 of the Political Code.

448. In order that a proper apportionment may be made in joint districts in accordance with subdivision fourth of Section 1858 of the Political Code, *teachers* should report to each Superintendent the average attendance and other statistics of those pupils only who reside in the Superintendent's County.

449. In joint districts the Superintendents must include in their reports to the State Superintendent the statistics of those pupils only who reside in their respective counties.

450. The law does not require the teachers of a joint district to hold a certificate from both counties.

451. A joint district must have its own apportionment of money in accordance with Section 1583 of the Political Code, and the teacher should be paid from the funds belonging to the district, not alternately from the two counties.

452. Joint districts, that is, districts lying partly in one county and partly in one or more other counties, can be formed only in the manner provided for the formation of new districts. (See Section 1577, Subdivision 3, of the Political Code.) Joint districts, when first formed, are new districts, and all the provisions of law applicable to the

formation of new districts apply in their formation. Joint districts can be formed only between the first day of December and the fifth day of April in any year.

453. The law specifically states that in the case of joint districts the teacher need not hold a certificate from each county. (See Section 1583 of the Political Code.)

DISTRICT, LAPSED.

454. If the average attendance for three months [under present law for a whole year—J. W. A.] in district A be only five pupils, even if it could be proven that during this time four other census children belonging to district A had attended school regularly in district C merely for the purpose of breaking up school in district A, district A would lapse, and would lose its share of the school fund.

455. A school in which there are but six pupils, one of whom is under six years of age, would lapse. The pupil under six years of age should not be counted.

456. Before the Board of Supervisors can revive a lapsed district they must take all of those steps which they would take if they were creating a new district.

457. When a district lapses, its territory does not fall back into and again become a part of the district or districts from which it was originally formed. The district remains as an isolated piece of territory until the Board of Supervisors dispose of it.

458. A district does not lapse because a six months' school has not been maintained. If there is an average attendance for three months [now a year—J. W. A.] of only five pupils, the district will lapse, and there is no remedy. A district can be prevented from lapsing only by having over five pupils in average attendance during the prescribed time.

459. A district in which school has been suspended on account of a prevailing epidemic, under Section 1859 of the Political Code, does not lose its right to apportionment. By a similarity of reasoning, if the attendance has run below six in consequence of the same cause, the district would not lapse.

460. In my opinion a district would not lapse in consequence of the fact that a portion of the pupils did not be-

long to the district, *provided* those pupils were legally attending; that is, were present in pursuance of Subdivision 15 of Section 1617 of the Political Code. Section 1543, Subdivision 2, does not confine the attendance of the minimum number to residents of the district.

461. A lapsed district cannot be revived without a new organization.

462. A district cannot lapse so long as it has an average attendance of more than five pupils.

463. A district lapses whenever there is an average attendance of five or less than five for three consecutive months. [Under present law for a whole year—J. W. A.]

464. Inasmuch as a district does not lose its State apportionment because it fails to maintain a six months' school on account of flood, fire or epidemic, it seems to me that a district should not be declared lapsed because the daily average is cut down to five or less on account of the roads being rendered impassable by heavy snows.

465. A district, under late amendments to the law, does not lapse unless the average attendance for the entire school year, or term for which the school was maintained for the school year, is five or less than five.

466. When the average attendance of a school for the entire time for which the school was maintained during the school year falls to *five* or *less* than *five*, it is the duty of the Superintendent to suspend the district, and to report the fact to the Board of Supervisors.

DISTRICTS, NEW.

467. In the formation of new districts, there is nothing in the law regulating the boundary lines. The nearest boundary line of the new district may immediately adjoin the lot upon which the school-house in the old district is located. It is necessary only that the parents or guardians of at least fifteen census children, residents of such proposed new district, should reside at a greater distance than two miles from *any* public school-house.

468. The law provides no means to compel the Board of Supervisors to establish a new district. When a petition is presented to them for the purpose of forming a new district, it is their duty to consider it; but it is in their option whether to grant the prayer of the petitioners or not.

469. New districts can be created only between the first day of December and the fifth day of April in any year. The money of the old district or districts is not to be divided with the new district; but the children continue their right to attend the school or schools in the old district until the close of the school year in June. The new district comes in for its apportionment for the year commencing on the first of July. The law does not compel the new district to begin school therein before the second Monday of September after its formation.

470. When a school district is divided, and a new district is formed, the new district is not entitled to any portion of the property of the old district. The library cannot be divided, nor can the library fund, or other funds.

471. When a new district is constituted, it is not entitled to any of the property of the old district of which it previously formed a part. The library cannot be divided, but remains the property of the old district.

472. The expression "within two miles of any district school-house" refers to the same county, except in the case of joint districts. Under the law as it now is, a new district cannot be formed that is less than two miles from a school-house in the same county, except as specified in Section 1577 of the Political Code.

473. A new district cannot obtain any part of the funds apportioned for the year in which said new district was formed. If the school is opened in the new district prior to the first day of July in the year in which it was formed, it must be supported by private means until the first day of July.

474. When a school district is divided by the formation of a new district, the new district is not entitled to any property belonging to the original district.

475. Under the law, as amended by the last Legislature, no new school district can be formed at any other time than between the first day of December and the fifth day of April.

476. If school is commenced in a new district prior to the first day of July, subsequent to its formation, it must be supported at the expense of the people of the district.

No new district can have any apportionment of funds made to it for the year in which it was formed.

477. A new school district is not entitled to any apportionment of funds for the year in which it was formed.

478. When a new school district is formed it is not entitled to any apportionment of funds belonging to the school year in which it was formed. The children of the new district are, by law, entitled to attend the school in the district from which the new district was formed until the first day of July next succeeding the formation of the new district. The school in the new district should not be opened until after the first day of July next succeeding; if it is opened it must be supported by private means.

DISTRICTS, SCHOOL.

479. By subdivision two of Section 4046 of the Political Code, it is made the duty of the Boards of Supervisors of the several counties of this State to divide them into school districts, and to change such districts as convenience may require; and, by the twenty-fifth subdivision of the same section, such Boards are authorized to do all things which may be necessary to the proper discharge of that duty. If, in order to accomplish the purposes of the law, it becomes necessary for the Board to make a survey, a surveyor may be employed for that purpose. The division should be made by order of the Board; and the fact of the division, together with an accurate description, should be entered upon the record. Section 1551 of the Political Code makes it the duty of the Superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the Board of Supervisors, and to keep in his office a full and correct transcript of such boundaries. If the boundaries of districts are conflicting, or incorrectly described, the Superintendent shall report such fact to the Board of Supervisors, and they shall immediately take such steps as may be necessary to change, harmonize and clearly define them. To accomplish this the Board, if they deem it necessary, may order a survey and employ a surveyor.

480. When a new district is formed by the subdivision of an old one, the County Superintendent should pay the debts of the old district out of the money on hand to the

credit of the old district. There is no law making the new district thus formed liable for any part of the debts of the old district.

480½. There are no means by which two school districts can unite, except by petition signed by a majority of the heads of families residing in each of the districts seeking to be united, as provided in Sections 1577 and 1578 of the Political Code. (Attorney-General A. L. Hart, 1881.)

481. The Board of Supervisors can divide a district when the provisions of Sections 1577 and 1578 have been complied with; but it must be done at their *first* meeting after the receipt of the petition, according to Section 1579. After they have divided, or refused to divide, their power ceases. They have no control over schools or school-houses. The school is under the sole management and control of the Trustees, and there can be but three Trustees in a district.

482. When incorporated, a town becomes a separate school district.

ELECTIONS.

483. If two persons at an election for the office of School Trustee received an equal number of votes, the request of one of those persons could not make the other the duly elected officer. Under such circumstances, there being no other person to fill the office, it would be proper for the County Superintendent to appoint a suitable person to the office, to hold until the next annual election. (Attorney-General A. L. Hart, 1881.)

483½. The loss of a certificate of election does not create a vacancy. (Attorney-General A. L. Hart, 1881.)

484. There is no law providing for the payment of Judges and Inspectors of elections for Trustees.

485. If the law has not been complied with in connection with the election of Trustees, the election is not valid. It is not the place of a Superintendent to pass upon this question. The presumption of law is in favor of the certificate of election, and this presumption can be overcome only by the action of a Court, after hearing testimony in the matter.

486. The requirements of the statute in reference to the election of officers must be strictly carried out, there being

no discretionary power except such as is given by the statute itself. Hence when the polls have not been kept open four hours subsequent to nine o'clock A. M., and before sundown, the election is invalid.

487. When the Judges and Clerks of an election have not been sworn (or affirmed) the election is invalid.

488. In the election provided for in Section 1830 of the Political Code, if a *majority* vote "Tax—Yes," the tax must be levied. In the election provided for in Section 1880, two-thirds of the votes cast must be "Bonds—Yes," in order that the bonds may be issued. (See Section 1884, P. C.)

489. Sec. 4, Art. II, of the Constitution, gives to the inmates of "The Veterans' Home" who have been residents of that portion of the State the length of time prescribed for electors, in the plainest terms, the right to vote at all elections authorized by law.

490. There is no provision in our law for the payment of election officers at a school election.

491. If the electors of a district failed to hold an election for Trustee, and the Superintendent did not appoint prior to the first Saturday in July, the outgoing Trustee could attend the election for Clerk of the Board, and vote for such Clerk. According to Section 879 of the Political Code, "every officer must continue to discharge the duties of his office until his successor has qualified."

492. There is no law that allows pay to officers at a special school election or at a regular school election.

493. Section 1597 of the Political Code has not been altered or amended, hence it is perfectly legal, in districts having less than five hundred census children, to hold an election for Trustees between the hours of one o'clock P. M. and five o'clock P. M. The polls cannot be opened before nine o'clock A. M., but they must be opened at an hour early enough to enable them to be kept open four hours before sundown.

494. Attorney-General Hart has rendered the opinion that Section 1067 of the Political Code does not apply to elections for School Trustees. In case of a tie vote there is no election and a vacancy would occur which must be filled by the Superintendent.

495. If a party had been appointed by the Superintendent to fill a vacancy, in the event of failure to elect at the time appointed by law, such appointee does not hold over, but either he must be reappointed or some one else must be appointed.

496. At the election for Trustees, if but one Trustee is to be elected, it is not necessary to write upon the ballot the time for which he is elected; if two or more are to be elected the time to be occupied by each one should be specified on the ballots.

497. All qualified electors in a district are entitled to vote at all school elections. There is no property qualification for electors in California.

498. The Superior Court is the only power that can declare an election illegal or void. Neither the State nor the County Superintendents are judicial officers; they have no power to declare an election illegal or void.

499. Neither the State Superintendent nor any County Superintendents are judicial officers; and, hence, cannot determine the legality or the illegality of the election of Trustees. These are matters for the determination of a court of law.

500. The election of a Trustee becomes void, and the office is vacant if he fails to qualify within *ten* days after receiving notice of his election. (See Section 907 of the Political Code; also, Section 996, Subdivision 9.) In case of a vacancy the Superintendent must appoint a party to fill it until the next general election.

501. The Attorney-General has heretofore decided that Section 1067 of the Political Code does not apply to elections for School Trustees. There can be no special election for Trustees.

502. If, at the election for Trustees, parties receive an equal and the highest number of votes, there is no election and a vacancy occurs. Section 1614, Subdivision 1, as amended by the last Legislature, expressly states that failure to elect creates a vacancy.

503. In case of a tie vote for Trustees, there is no election, and a vacancy will occur. This must be filled by the Superintendent until the next election. The old Trustee

does not hold over in case of a tie; his term ceases on July 1st, subsequent to the election.

EPIDEMICS.

504. When schools have been closed in consequence of the prevalence of an epidemic, teachers will report the time taught, even though it be less than eight months. A district does not forfeit its right to its apportionment of the public moneys when less than six months' school has been taught because of the prevalence of an epidemic; nor is the balance of funds to be reapportioned in such case if an eight months' school has not been kept.

505. When a school has been taught in any district less than eight months in consequence of the prevalence of an epidemic, and there is a surplus of funds at the close of the school year, such surplus should not be reapportioned. The fund remains to the credit of the district.

506. When school was closed in consequence of an epidemic, and the teacher had taught only six days in the month, the six days is all that are to be reported.

507. When exercises in a school are suspended on account of epidemics, or other unavoidable cause, the teacher cannot be required to make up the time thus lost; nor can any reduction be made in the salary of the teacher in consequence of the suspension of the school.

EXAMINATION, CITY BOARDS OF.

508. The amendment to Section 7 of Article IX of the Constitution does not abolish any City Board of Examination. The amendment does not abolish the City Board of Examination of the City and County of San Francisco; but the members of the latter Board can have nothing to do with the examination of teachers and granting them certificates, except as the agent of the City Board of Education.

509. In reply to the inquiry as to the effect of what is known as the Perry amendment, in respect to the powers of City Boards of Examination to examine teachers and issue certificates, I have to state that, in my opinion, such City Boards have no power, and that under the Perry amendment the power is lodged entirely with the County Superintendent and County Boards of Education, whose jurisdiction in this matter is co-extensive with their re-

spective counties. But in the event the County Superintendent and the County Board of Education of any county approve and ratify the action of such City Boards of Examiners in examining teachers and granting teachers' certificates within the jurisdiction of such county, the action of such City Board is thus vitalized, and becomes the action of the County Superintendent and County Board, the latter thus controlling the whole subject matter. (Attorney-General G. A. Johnson, February, 1887.)

EXAMINATION OF PUPILS.

510. The examination and graduation of pupils from the public schools is one of the duties of the County Board of Education. In the seventh subdivision of Section 1771 of the Political Code the law says: "Diplomas shall be issued only to pupils who have passed an examination prescribed by the County Board of Education. Such diplomas shall be signed by the President and Secretary of the County Board and the Principal of the school." In subdivision two of Section 1663, the law says that the County Board shall also provide for conferring diplomas, at the end of the course of study in the grammar grade, for those who satisfactorily pass the required examination. Here the examination is prescribed and prepared in detail by the County Board; and they can know when it has been *satisfactorily* passed only by making the examination through committees of their own members, or else through agents in whom they repose confidence. The President and Secretary are required to sign the diplomas; and when they do so they certify to the fact that the examination has been satisfactorily passed by the pupil whose name is on the diploma; this they can do only when satisfied.

511. The proper parties to examine the papers prepared by pupils in examination for promotion or graduation are the teachers of the schools. The County Boards of Education prepare the questions for examinations, and may review the work done in crediting the papers if they deem it necessary. There is no specified time or place in which or at which the papers must be examined by the teachers. The County Board have the right under the law to prescribe the regulations for conducting the examinations.

512. The examinations for diplomas of graduation in cities having Boards of Education must be conducted by the City Board, and not by the County Board of Education.

513. It is not the intention of the law that the County or City Boards of Education should *conduct* the examinations for either promotion or graduation. The law does not require impossibilities. In my opinion it would be an impossibility for Boards of Education to *conduct* the examinations in the schools of their respective counties, even were they to spend their whole time in the work. Section 1663 of the Political Code means simply that these Boards *shall require* that promotions upon written examinations or *otherwise* shall take place at stated periods, at least once in each year; and also shall *provide* for conferring diplomas at the end of the course of study in the *grammar grade* upon those who satisfactorily pass the examination which they *require*. The law does not even demand that the Boards shall prescribe the examination for promotion; but by implication does require the Boards to *prescribe* the examination for graduation. [See Section 1771, subdivision 7.] *Prescribe* is one thing; *conduct* is quite another thing. In the case of graduation it is the duty of the Boards to prescribe the examination, and to satisfy themselves that the examination has been passed in a satisfactory manner. This they can do, as it is generally done, by requiring the teachers in charge of the schools or classes to conduct the examination, and report to the Boards. This report may be such as the Boards may require in order to enable them to determine that the examination has been satisfactorily passed. They may require that the papers of the pupils passing the examination shall be forwarded to them for their inspection. The Boards are not required to examine and credit the papers; nor is such work expected of them. The Boards can transact business only when a quorum is present. [See Section 1768.] No authority is anywhere given to hold meetings at places other than the county seat. By Section 1770 of the Political Code, their meetings must be held at the county seat, and must be public. They must meet in order to determine whether the examinations for graduation are or are not satisfactory, for this is business.

514. A Superintendent has the right to pay, out of the amount allowed him for postage, the expressage on papers returned to him from the teacher to whom the questions were sent. He has also the right to refund to the teacher the postage which the teacher has paid upon such papers.

515. County Boards of Education have no power to require pupils to take an examination outside of the limits of the district in which such pupils reside. Nor can Boards of Education justly withhold diplomas of graduation from the grammar or high schools when pupils have satisfactorily completed the course of study prescribed in such schools.

EXAMINATION, OF SCHOOLS.

516. There is no definite or specified construction or interpretation given anywhere in the law to that subdivision of Section 1543 concerning "Visiting and examining schools." Indeed, it would be quite impossible to fix just the amount of time to be given by the Superintendent, or to fix the degree of thoroughness of the examination. It should be in each case such as to furnish the Superintendent with a proper basis, for one thing, for properly grading the school. For another thing, it should be such as to enable him to be perfectly satisfied that the teacher is properly performing his or her duties, and that the State and the district are receiving an adequate return for the outlay of money. Of course, different schools will require more or less time, according to circumstances. To fix any definite time, or prescribe any set form, or any set limit of thoroughness to these examinations, would be to hamper the Superintendent to the extent of almost, if not entirely, defeating the objects of the provision.

517. By Section 1543 of the Political Code, Superintendents are required to visit and examine each school in their respective counties *at least* once in each year. This implies that he may visit them as many times as in his official discretion he may deem desirable.

518. By subdivision fifth of Section 1543, it is made the duty of County Superintendents to visit and examine each school in his county at least once in each year. Should they not do so, the penalty is plain—they lose $10 from their salary for each school not visited. The Board of

Supervisors have no option in the matter, but, on proof of delinquency, they *must* deduct the $10.

519. A County Superintendent or a State Superintendent or a County Board of Education can step into any school-room, and without consulting the teacher in any way, proceed to examine the school. The very intent of superintendency implies this power, even though the law was silent. A local Board of Trustees cannot prevent the Superintendent from examining a school, nor from directing a teacher to do so in his presence. Nor would the law demand of a County Board that which is impossible. The County Board *prescribes* the examination; yet the law does not say that they shall conduct that examination. It says that they shall *require* an examination at least once a year for *promotion;* and it further says that diplomas shall be issued only to pupils who have passed an examination by the County Board. If County Boards have the right to prescribe the examination, they have the right to prescribe everything in connection with the examination—the time, the manner of conducting, etc. The examinations are not limited to graduation.

EXAMINATION, OF TEACHERS.

520. After an examination of teachers the applicant can demand his papers for inspection by himself or his authorized agent.

521. If physiology, music, book-keeping and drawing are required to be taught, it goes without saying that teachers should be qualified to teach them, and the only way to ascertain that fact is by examination.

522. A County Board has the right to reject any study in case of an applicant for a teacher's certificate who is suspected of fraud in the examination.

523. The Board of Education should not admit any party under eighteen years of age to an examination. Should they do so, and should the party so admitted receive the requisite credits to entitle him to a certificate, it would not be legal to grant the certificate to such party on attaining the age of eighteen years. Having admitted him to the examination, and then having refused to grant him a certificate upon said examination, the Board settled the question that he could not receive a certificate upon that examination.

524. It would not be in accordance with the law for County Boards of Education to hold examinations for teachers' certificates more than twice during the year. This section specifies that teachers' examinations must be held at fixed periods and semi-annually. It follows that regular meetings must be called for this purpose and notice given. If it were the intention of the law to authorize more than two examinations, it would read, "must hold *at least* two," etc.

525. A party under eighteen years of age cannot be admitted to a teacher's examination.

526. It has been decided several times by the State Superintendent that a party under the age of eighteen years should not be permitted to enter a teacher's examination.

527. There is nothing in the school law or in any statute of the State which authorizes the holding of a special meeting of a Board of Education for the purpose of examining a candidate for a special certificate. The very fact that the law provides for the issuance of temporary certificates precludes the right to hold special meetings for this purpose.

528. It has uniformly been held by this office that parties under the age of eighteen years cannot be admitted to teachers' examinations.

## EXHIBITIONS, SCHOOL.

529. When Trustees give an entertainment for the benefit of the school, and refuse or fail to turn over the proceeds to the County Treasurer, they fail to fulfill the duty which is specifically laid down for them in Section 1617 of the Political Code, subdivision 2. And every willful omission to perform any duty enjoined by law upon any public officer is punishable as a misdemeanor by imprisonment in a county jail not exceeding six months, or by a fine not exceeding $500, or by both, except in cases where a different punishment is prescribed by the Code.

## EXHIBITS, SCHOOL.

530. Bills for material used in preparing a school exhibit at a County Institute may be paid for out of the County Fund after an eight months' school has been maintained.

EXPENSES, NECESSARY.

531. Janitor's services and wood, during those seasons when it is necessary to have a fire in the school-room, are to be included amongst necessary expenses mentioned in Section 1543, subdivision *3d*, for which the Superintendent must draw his requisition on the County Auditor, upon the order of the Board of Trustees, if there is money in the fund to pay it.

EXPERIENCE, TEACHERS.'

532. Nothing in our law excludes service as a teacher in foreign countries. It rests entirely with the County Board whether they will accept it or not.

533. Experience in private schools is credited the same as that in public schools. To obtain a life or an educational diploma the applicant must comply with all the requirements of Section 1521, subdivision 4. The affidavit of the applicant must be filed in the office of the State Superintendent, along with the recommendation of the Board of Education.

534. Experience in private schools can be recognized by Boards of Education when recommending applicants for life or educational diplomas.

535. Experience in either private or public schools can be considered in granting diplomas; but experience in teaching pupils in private capacity, and not in schools, can not be recognized.

536. Experience in private schools can be considered in estimating the experience required for life and educational diplomas.

FEES.

537. *All* applicants for certificates, other than temporary, should pay the fee. Under the law one-half of this money goes for the purchase of books by the County Superintendent for a teachers' library, and the other half helps to form the County Institute Fund.

538. I think Section 1565 of the Political Code authorizes the charging of a fee for renewing certificates in any county of California. A renewed certificate is, in effect, a new certificate.

539. Every application for a certificate, except in the

case of temporary certificates, must be accompanied by a fee of two dollars. It has been held that a renewed certificate is a new certificate, and therefore the Board should collect the fee for such a certificate.

540. The renewal of a certificate is practically the issuance of a new certificate and the usual fee for issuing a certificate should be charged.

541. According to Section 1565 of the Political Code, the City Board of Examination must charge a fee for every kind of certificate, except temporary ones. This fee is payable to the County Superintendent before the applicant can legally enter the examination. It may be for convenience collected by the City Superintendent and be by him paid over to the County Superintendent. When collected by the County Superintendent, it must be paid to the County Treasurer to the credit of the Teachers' Institute and Library Fund. The County Superintendent is named in the law as the party to whom the fee is payable.

542. If City Boards of Examination grant certificates on the certificates of the County Board, as they are authorized to do by Section 1775 of the Political Code, the payment of the fee required by Section 1565 would be necessary, and *vice versa*. The certificate granted by a City Board of Examination or Education is a *new* certificate, and the fee must be paid for all certificates, except temporary.

543. Boards of Education are not at liberty to charge a fee for issuing temporary certificates. Section 1565 specifically excepts such certificates.

544. It is not the intention of the law that a fee shall be collected for issuing a high school certificate in lieu of a grammar school course certificate. The high school certificate is issued in lieu of and not upon the grammar school certificate simply.

545. Under Section 1565, Political Code, "each applicant for a certificate, except temporary, upon presenting his application, must pay to the County Superintendent a fee of two dollars, to be deposited to the credit of the Teachers' Institute and Library Fund." (W. H. H. Hart, Attorney-General.)

546. The Attorney-General, on September 4th, 1891,

rendered the decision that, under the provisions of Section 1565 of the Political Code, every applicant for a certificate, except temporary, upon presenting his application must pay to the Superintendent a fee of two dollars, to be deposited to the credit of the Teachers' Institute and Library Fund.

FLAGS, SCHOOL.

547. If a district has maintained an eight months' school, the Trustees are perfectly justifiable in purchasing a flag with any balance that may remain in their County Fund.

548. The County Fund may be used, after an eight months' school has been taught, for the purchase of flags and flag-poles.

FRAUD, EFFECT OF.

549. If the funds of a district have been disposed of in a fraudulent manner, action can be instituted to recover them. In such case the Trustees are personally and individually liable for the money fraudulently expended.

550. If a Trustee makes false entries in his books of the district, the matter should be presented to the District Attorney of the county. According to Section 996 of the Political Code, any Trustee can be removed from office for malfeasance in office by the decision of a competent court.

FUNDS, SCHOOL.

551. State and county school moneys must be used exclusively for the support of schools in the year for which the apportionment is made and for no other purpose whatever, until an eight months' school has been maintained during that year.

552. After an eight months' school has been taught, if there is an unexpended balance in the County Fund, it may be used to pay former indebtedness, or for the succeeding year.

553. The State School Fund must be used for the payment of teachers' salaries, and for no other purpose.

554. Trustees are compelled, when there is sufficient money to the credit of a district to do so, to maintain an eight months' school; and the closing of the school for the year, before an eight months' school has been taught, in order that the money apportioned to the district may be

used for some other purpose, is defrauding the children of the district out of the provision made for them for the year. This should not be allowed. Section 1621 of the Political Code is very clear on this point, and specifically provides that the only way in which the right to use any balance of funds that may be to the credit of a district at the end of the year for the payment of outstanding claims, or for the year succeeding, is to have maintained a school for eight months. If a balance cannot be used for the payment of old claims, nor for those to be created in the future, it cannot be used at all.

555. Any balance of State or county moneys on hand to the credit of a district at the close of the year must, if the district has failed to maintain a school for eight months, be reapportioned among the districts of the county. If a district failing to maintain a school for six months, whether the funds derived from the State and county are sufficient or not, loses its right to any apportionment for the next year, it is certainly but right that a district failing to maintain a school for eight months, when it has sufficient funds to do so, should lose the benefit of any balance saved by such neglect of duty.

556. If the State and county furnish a district with sufficient money to maintain a school for eight months in the year, the Trustees should not be permitted to close the school at the end of six months and use the money thus saved for any of those purposes for which the district itself should provide the funds.

557. In accordance with Section 1621, "if, at the end of any year in which an eight months' school has been maintained, there is an unexpended balance, it may be used for the payment of claims against the district outstanding, or it may be used for the year succeeding." Section 1622 provides that whilst the State School Fund, except ten per cent. for libraries [this exception is now out—J. W. A.], can be used for the payment of teachers only, the County Fund may be used for any of the purposes named in the chapter. Section 1617, subdivision 3d, specifies, among the powers and duties of Trustees, the power "to purchase school furniture and apparatus, and such other things as may be necessary for the use of the schools." The only question then is, are bells and organs "necessary

for the use of schools?" This is, of course, largely a question of personal judgment. Schools having been maintained for a length of time sufficient to give the Trustees control of the balance of the funds, the payment of organs and bells would come within a legitimate use of such balance of *county funds*. The balance of *State funds* they have also acquired the right to use, but only for debts incurred on account of salaries for services rendered by teachers of grammar or primary schools, or for payment of such salaries during the next school year. There is a seeming conflict perhaps between Sections 1621 and 1622, but it will be found upon careful reading that none in fact exists. The meaning of these two sections is that no balance of either State or county moneys can be used by the Trustees if a school has not been maintained eight months, but that it reverts each to its original fund, and must be reapportioned to the various districts as so much State and so much county money. That, an eight months' school having been maintained, the Trustees have the power to use that balance in the same manner, and in that manner only, as they were empowered to use any of the State and County Funds, of which these are but balances, viz.: the balance of State moneys, first, for the claims against the district for *teachers' salaries;* and, second, there being no such claims against the district, to be carried over for payment of *teachers' salaries* during the next year. The balance of county moneys may be used, first, for the payment of legal miscellaneous claims against the district; and, second, carried forward for, as the law expresses it, "any of the purposes authorized in this chapter." (Superintendent F. M. Campbell, 1881; Attorney-General A. L. Hart concurring.)

558. The Boards of Trustees and the Boards of Education must use the school moneys received from the State and county apportionments *exclusively* for the support of schools for the school year, until at least an eight months' school has been maintained. (See Section 1621, Political Code.) Section 1622 prevents the use of State money, *at any time*, for anything other than teachers' salaries.

559. "Teachers," as used in Section 1858, is only for the purposes of apportionment, and it may happen that from a large census roll a district may draw an apportion-

ment from two "teachers"—that is simply two "five hundred dollars," so to speak, or one thousand dollars—when, by a small attendance from any cause, only one actual teacher would be necessary. There is nothing in the law to compel the Trustees to employ two. Having received funds for two teachers, and the necessities of the school by reason of large attendance requiring that two should be employed, the Trustees have *no right* to employ but one, to the disadvantage of the pupils; and if they do it for the purpose of saving the money for any other purpose, are *morally*, if not legally, guilty of a gross misappropriation of funds, and of a great wrong upon the children of the district.

560. The money apportioned to the various districts from the balances (Section 1621) forms a part of the $500 to be allowed to each teacher of the year. The object of Section 1621 is to prevent Trustees from closing schools earlier than eight months (having sufficient money for continuing them longer) that they might use the money so saved for purposes for which the district should provide. The Library Fund is not subject to this abuse, being specially protected.

561. Under no circumstances can any portion of the State money be drawn or used for building purposes. *All* the State money, except the ten per cent. reserved for district school libraries [the exception no longer obtains—J. W. A.] must be applied *exclusively* to the payment of the salaries of teachers of primary and grammar schools. The County Fund must also be exclusively used for the support of schools, until an eight months' school has been maintained. If at the end of a year during which an eight months' school has been maintained there is an unexpended balance of county money, it may be used for any of the purposes named in Section 1621. Among the purposes so named is the building of school-houses.

562. Private schools can have no portion of the public moneys awarded to them. Section 8 of Article IX of the Constitution of the State forbids it.

563. A Superintendent writes as follows: "Should I allow a bill to be paid out of the county fund for insuring a school-house, before an eight months' school has been

maintained? The district has money enough for an eight months' school, but as they did not commence in time, they will not have time enough to keep eight months before July 1st. Now, in order to get the benefit of some of their money that would otherwise be reapportioned, they have gone on and insured their school-house, and the Trustees' order is in my hands." Section 1621 of the Political Code provides that Trustees must use the State and county money exclusively for the support of schools for that year, until at least an eight months' school has been maintained, if at the end of any year during which an eight months' school has been maintained, etc. In the case of the district referred to, there is money enough to the credit of the district to maintain an eight months' school, but owing to tardiness in opening school, there is not time enough to keep a school so long this year. The object of the law, as expressed in Section 1621, was to prevent Trustees, having money enough from State and county to keep an eight months' school, from closing at the end of six months, and using the money so saved for purposes for which the district should itself raise the money. The Trustees in this case took the time from the other end of the term. It would be a dangerous precedent to establish, that the object of the law could be defeated in this way. The bill should not be allowed.

564. There is no provision of law that authorizes Trustees to give notes or evidences of indebtedness against a district. Section 1623 forbids Trustees from contracting indebtedness in excess of the school money accruing to the district for the school year in which the contracts are made.

565. The Attorney-General holds that, if a district maintains a *six* months' school, but by reason of whooping-cough fails to maintain an *eight* months' school, the balance on hand at the close of the year should be reapportioned. He holds that those things named in Section 1859 as relieving from the penalty for failing to maintain a six months' school are not applicable to the case of a failure to maintain an eight months' school, as set forth in Section 1621.

566. The Trustees of a school district cannot use an unexpended balance for other purposes until an eight months'

school has been maintained. A certain district had a balance of $500 after maintaining an eight months' school last year. It is now closing the sixth month this year. The Trustees caused the school-house to be painted this winter, and drew an order on the County Superintendent, which the County Auditor refused to audit, on the ground that an eight months' school had not been maintained this year. The Trustees thought that under Section 1621 of the school law they could use the balance carried over from the last school year for repairs or any legitimate purpose. The $500 carried over from last year became a part of the apportionment this year, and to obtain a balance available for miscellaneous purposes this year, an eight months' school must be maintained. The Auditor was right.

567. Superintendents have no power to transfer money from the State fund to county fund. Such power would be equivalent to that of power to violate the plainest provision of law—an inconsistency which cannot for a moment be entertained. Section 1622 prescribes the purpose for which the *State fund* shall be used *exclusively*, as distinguished from the purposes for which the county fund may be used. To transfer State money to the county fund would be to violate this plain provision. The authority to so transfer does not exist.

568. When the year ends in which a school has been maintained for eight months, the balance of the school moneys that are in the county fund may be used by the Trustees for any of the purposes which are or might have been claims outstanding, up to the time when they shall determine to use it for the year succeeding, and have it merged with the funds for that succeeding year. If the Trustees have caused the balance on hand at the end of a school year to be merged with other funds, they must wait until an eight months' school has been maintained in the succeeding year.

569. There is no provision of law which permits the diversion and use of the moneys of a fund for any purposes other than those purposes for which that fund was created.

570. When a district has maintained a school for eight months in the year the balance on hand of the *county fund*

can be used to pay the premium upon a policy of insurance against fire.

571. Under Section 1621 of the Political Code, the balance on hand in a district that has *not maintained* a school for eight months in the school year must be reapportioned, and this balance cannot be used to pay the premium on a policy of insurance against fire.

572. Under no consideration can any portion of the State apportionment be used for the improving of the school grounds; and none of the county fund can be used for such purpose until after an eight months' school has been maintained.

573. The State School Fund cannot be used for building under any circumstances.

574. The county fund can be used for the purpose of building a school-house; but not until after an eight months' school has been taught.

575. Section 1621 of the Political Code does not conflict at all with Section 18 of Article XI of the Constitution. The latter forbids running in debt beyond the means of paying. Section 1621 is intended to secure an eight months' school in preference to other objects. The Boards of Trustees and the County Superintendents will know the amount of funds belonging to the district for the year—what the school will cost for eight months, and the balance, if any; and they may expend the balance in satisfaction of obligations which they entered into in view of that balance.

576. After an eight months' school has been taught, the surplus of funds can be used to provide outhouses, and to adorn the grounds with fruit and ornamental trees and shrubbery, and to sow the grounds with grass seed; but these expenditures must not exceed fifty dollars.

577. If a school has not been maintained for eight months, any balance remaining to the credit of the district must be reapportioned by the Superintendent. The section in regard to the close of school on account of fire refers to a six months' school.

578. Sec. 1621 of the Political Code is explicit that an eight months' school must be maintained, if possible, before any of the moneys coming from the State and County

can be used for other purposes. If there are things which cannot wait, they must be paid for out of revenues derived from district taxation or miscellaneous revenues. A bill for insurance can lie over until the school has been maintained for eight months, and then come in as a bill outstanding. Doubtless the policy of the law is to prevent Trustees from calculating too confidently on their revenues, and thereby failing to secure a school for at least eight months.

579. The funds appropriated for one fiscal year cannot be used to defray the expenses of any other year. The repairs made in the year ending June 30th, 1884, must be paid out of the funds for that year. The expenses for carrying on the school for eight months must come first, and then outstanding claims for the year may be liquidated, if there is money to do so.

580. The Superintendent has no means of determining *how much* money is remaining in any fund at the close of the year, save the records of his office. The money shown by the records to be remaining at the close of the school year must be reapportioned. This may cause claimants some delay; but, then, they might have avoided the delay by a prompt rendition of their accounts in the last school year. The policy of the law seems to be two-fold: 1st, to secure a school for eight months, if possible; and, 2d, to cause a prompt settlement of accounts annually.

581. After the State fund has been exhausted, the Trustees are not required to use the county fund exclusively for salaries until an eight months' school has been taught. They can use it as well for incidental expenses necessary to the support of the school.

582. If an eight months' school has been maintained, the Trustees can use any unexpended balance in the improvement of the grounds.

583. If a district, after maintaining an eight months' school, has a balance on hand, the Trustees can use it to pay any indebtedness for building or repairing, or in any other legitimate way.

584. The Trustees of a district have no right to draw upon the county fund of their district for the purpose of improving the school-house or other school property until after an eight months' school has been taught.

585. After a school has been maintained for eight months in any year, the balance of the county fund may be used for the purpose of repairing or building a school-house, or to pay off any outstanding debts, or it may be used for the succeeding year.

586. There is no way under the law by which State fund can be transferred to county fund.

587. After an eight months' school has been maintained, Trustees have a right to draw upon the balance in the county fund to pay for apparatus, if they think best, or for any legitimate claim against the district.

588. The State money must be used, *always*, for the payment of salaries of primary and grammar teachers and to nothing else. It is better to pay this out first, and then whatever remains at the close of the year will be available for district indebtedness.

589. Article XI, Sec. 18, of the Constitution, says that there cannot be expended during any one year, for any purpose whatever, more than the appropriation for such year. Hence the Trustees of a district cannot keep the school open after the money is exhausted, and draw warrants for teachers' salaries payable out of the next year's funds.

590. Under no circumstances can the State fund, or any portion of it, be used for any other purpose than the payment of teachers' salaries.

590½. If there is not sufficient money in the school funds of the current year to continue a school six months, the Trustees are not at liberty to continue it and draw upon next year's funds. The school must be continued by tax upon the district or by the patrons of the school, in whatever way they may deem best, otherwise the district will not be entitled to any apportionment for the following year.

591. After an eight months' school has been taught, any moneys remaining on hand in the county fund can be appropriated to the payment of any outstanding claims against the district, or such funds can be used for the succeeding year in the purchase of such things as may be necessary for the support of the school during such succeeding year. If Trustees have the right to purchase an unlim-

ited quantity of wood when such wood is not necessary, simply because they can get it at cheaper rates, they might extend such purchases, not to the succeeding year only, but to any number of succeeding years. It is good business principle to see that the law is complied with, and to see that the funds of one year are not appropriated to the purchase of an advance supply of articles for the succeeding year because such articles can be purchased at a lower rate. The law does not permit any such action.

592. If Trustees expend the library fund for furniture, or for any purpose, except that for which such fund is provided, they violate the law and should be held responsible.

593. Attorney-General Hart has decided that the law permitting or authorizing the temporary transfer of moneys from another fund to the school fund in order to avoid the necessity for teachers discounting their warrants, is constitutional. The County Treasurer, upon request of the County Superintendent, can transfer sufficient moneys from any fund in which there is a surplus, the same to be replaced when the taxes are collected.

594. Section 1621, Political Code, provides that school moneys received from the State and county apportionments must be used exclusively for the support of the schools for that school year until an eight months' school has been maintained. The unexpended balance may be used for the year succeeding. (See Section 18 of Article XI of the Constitution.) The Controller formerly made the apportionment in August and February; but, on account of the installment plan of paying taxes, it has been changed to July and January. The apportionment made in July by the Controller, and in August by the Superintendent of Public Instruction, is from the funds collected during and for the previous fiscal year. The Controller is right in holding that the Superintendent of Public Instruction cannot make another apportionment of State School Funds until August next. The State School Fund is described in Section 4 of Article IX of the Constitution, and embraces moneys raised by taxation in pursuance of Acts of the Legislature. (Section 435, Political Code, Statute of 1891, p. 471.) It is the duty of Superintendent of Public Instruction to apportion the State School Fund. (Subdivision 4, Section 1532, Statutes of 1891, p. 152.) How

this is to be done is specified in Section 1858, Political Code, Vol. 5 of Codes, p. 47. *Such apportionment will be available for the present fiscal year*, and will occasion but little delay in drawing warrants. See Section 8 of Article XI of the Constitution. (Attorney-General W. H. H. Hart, April, 1892.)

595. The State and County School Funds cannot be legally applied to the support of high schools. High schools must be supported by a special tax for that purpose. See Sections 1621 and 1665 of the Political Code, and Statutes of 1891, p. 161. (Attorney-General Hart.)

596. By Section 1617 of the Political Code, Subdivision 2, Trustees are required to pay into the County Treasury *all moneys* collected by them for the district, *from any source whatever.*

597. No county fund, nor any other fund apportioned to the schools, or to be apportioned, can be used for the purpose of paying railroad fare of any parties whatever. If the Trustees or Superintendents allow any such claims, they plainly violate the law, and can and should be held responsible.

598. There is no law which authorizes the transfer of funds from one district to another, in the case of children attending school in districts other than those in which they reside. The increased average attendance in the district in which they are permitted to attend, takes the place of transfer of funds.

599. The Attorney-General decided, last July, that the State fund apportioned at that time having accrued from taxes, and from interest on bonds, for the year in which the taxes were levied, and the interest accrued, belonged to the school year ending June 30th, 1892. The same principle will obtain in reference to the apportionment for next July; and the fund then apportioned will be available for the school year ending June 30th, 1893, and so on hereafter.

600. Boards of Trustees are at liberty to use only so much of the county fund as may be necessary to furnish such supplies as are absolutely necessary for the support of the school until after an eight months' school has been maintained. After the eight months' school the county

fund may be used for any of the purposes specified in the school law.

601. Under the law, as lately amended, no part of the State School Fund can be used for any purpose other than the payment of the salaries of teachers. No part of it can be used to pay an outstanding indebtedness for apparatus.

602. It is the duty of Boards of Education and Boards of Trustees to pay all moneys collected by them from any source whatever for school purposes, into the county or city treasury to credit of the special fund of the city or district.

FURNITURE.

603 Trustees cannot move the furniture from the school when the school has been located by the people, without a vote of the people. If they refuse to obey the order of the Superintendent to replace the furniture wrongly moved, action should be begun against them for the purpose of compelling them to comply with the law.

GRADING OF SCHOOLS.

604. The matter of grading the schools is entirely in the hands of the Superintendent, and he is at liberty to obtain the information necessary, as a basis for intelligent action, in any way that to him may seem best—by actual examination, upon the report of the Trustees, upon that of the teacher, or upon all these combined. As a general proposition, it would be manifestly unsafe, and therefore improper, invariably to grade the schools in accordance with the reports of the teachers.

605. The grading of the schools is in the discretion of the County Superintendent, and the practice is different in different counties, in reference to the number of pupils pursuing studies beyond the primary grade.

606. There must be a record in the office of the County Superintendent showing the grade of all schools in his county.

607. The law, Section 1543 of the Political Code, places the grading of the schools in the hands of the County Superintendent; no one can interfere with his legal discretion in the matter.

608. It is the duty of the County Superintendent to grade

schools, and to his legal discretion the matter is defined by law. The State Superintendent has not power to interfere directly.

609. It is the duty of the Superintendent to grade all schools; but whether the schools shall be grammar or primary is left to his discretion.

610. It is the duty of the County Superintendent to grade the schools. (See Section 1543 of the Political Code, Subdivision 16.) It is left to his judgment what number shall be the minimum for a grammar grade.

611. It is the duty of the County Superintentent to grade the schools of the county, but it is left to his judgment what number shall be the minimum for a grammar grade.

612. It is, by Section 1543 of the Political Code, Subdivision 16th, the duty of County Superintendents to grade the schools. The whole matter of grading lies with them; and there is nothing in the law, or in any decision from this office, that determines what shall constitute a grammar school.

613. The matter of grading schools is one entirely in the discretion of the County Superintendent. There is no definite number designated for the establishment of the grammar grade. The Superintendent can, if he thinks proper, grade a school as a grammar school if there is but one grammar pupil.

614. It is the duty of the County Superintendent to grade the schools of his county. The matter of grading the schools rests entirely in his discretion, and when graded, teachers who hold only primary certificates cannot teach in schools in which grammar school studies are required to be taught.

615. A school having been graded as a grammar school, the teacher who has charge thereof must hold at least a grammar grade certificate.

616. It is the duty of the County Superintendents to determine the grade of the schools under their charge.

HIGH SCHOOLS.

617. It is necessary for the teachers in a high school to hold the high school certificate provided for in Section 1791 of the Political Code.

618. It is necessary that all teachers appointed or elected to teach in a high school, should have high school certificates. Parties holding grammar school course certificates are entitled to have high school certificates issued to them upon presenting the grammar school course certificate for cancellation.

619. Grammar school course certificates are no longer issued, the grammar school course having been abolished. Holders of such certificates heretofore granted are entitled to receive high school certificates in their stead, and Boards of Education have no right to refuse to grant high school certificates in lieu of them when they are presented for cancellation.

620. No party can be employed to do high school work who is not the holder of a high school certificate in full force and effect. If such party is employed the Superintendent must refuse to grant a requisition for a warrant for his salary.

621. If a city or incorporated town has 1,000 inhabitants it may vote to establish a high school without joining with it any other district. If such city or incorporated town has not 1,000 inhabitants it cannot by itself vote to establish a high school, but it may solicit other districts to unite with it for such purpose.

622. Neither a City Board of Education nor a Board of Trustees have any authority to employ a teacher to do high school work who holds no higher than a grammar grade certificate. Every teacher must hold a certificate corresponding in grade with the grade of the school in which he teaches. The teacher holding a primary certificate can teach only in a primary school; the holder of the grammar grade certificate can teach in a primary or a grammar school; the holder of a high school certificate can teach in any school.

623. Two or more districts may unite for the purpose of establishing a district high school without reference to population. The clause relative to 1,000 inhabitants applies to cities or incorporated towns.

624. The action of a majority of the districts petitioning for a union high school binds all those that petitioned for the formation of the high school, whether their vote was in favor or not.

625. All the districts of a county may unite to form a union high school.

626. Boards of High School Trustees, under Section 6 of the High School Act, Statutes of 1891, page 183, have power to "submit to the electors of a district whether bonds of such district shall be issued and sold" for the purposes mentioned in Section 1880 of the Political Code. (Deputy Attorney-General Sanders.)

627. The proposition to establish union high schools must be voted upon separately by the districts petitioning. If a majority of the districts vote affirmatively on the proposition, the vote binds all the districts petitioning.

628. The law does not authorize the admission of pupils of the eighth grade in the grammar schools to the high schools, except such pupils prove themselves capable of prosecuting the high school course.

629. The Board of Directors of a union high school have only such powers delegated to them as are specified in the Act authorizing the establishing of such schools. The adoption of text-books is not one of those powers. Hence the text-books for such schools must be adopted by the County Boards of Education.

630. Directors of county and union high schools have power to make such regulations for the schools under their charge as they may deem expedient or necessary; *provided,* such regulations are not in contravention of law. Hence, they have power to permit pupils in such schools to pursue special studies whenever good reason exists therefor.

631. No party, while he is a member of the County Board of Education, can serve as Principal of the county high school in his county; in doing so he would be acting in violation of Section 920 of the Political Code.

632. Parties holding special certificates cannot be legally elected as Principals of high schools.

633. If the average attendance in any high school for the entire time for which the school has been maintained for the school year, after the first school year, falls to *ten* or *less* than ten, the Superintendent shall suspend the school in the high school district, and report to the Board of Supervisors. Upon receiving this report the Supervisors shall declare the district lapsed. (See Subdivision 23d of

Section 1670 of the Political Code, as amended March 23, 1893.)

634. The Attorney-General, as well as the Superintendent of Public Instruction, has given it as his opinion that a High School Board has power, under the law, to submit to the electors of the high school district whether bonds of such district shall be issued and sold for any of the purposes named in Section 1880 of the Political Code.

635. Teachers employed in high schools must hold high school certificates.

636. High schools cannot embrace primary or grammar grades; nor can primary or grammar schools embrace high school grades. The primary and grammar schools are under an entirely different *regime* from that of the union high schools.

637. The law in regard to the establishing of county high schools does not require a majority of all the votes cast at a general election, but only a majority of the votes cast upon the particular proposition to establish a high school.

638. There is no provision of law by which a district included among those voting to establish a union high school can be released from the union; nor is there anything in the law empowering a Board of Supervisors to change a high school district.

639. A teacher holding a grammar grade certificate can not be employed to teach any branches in a high school. The certificate must always correspond in grade with the grade of the school.

640. A teacher holding no other than a special certificate cannot be legally elected as the Principal of a high school.

641. There is nothing in the law that will authorize a Board of Trustees to close a school at an early hour in the afternoon in order to accommodate a high school.

HOLIDAYS.

642. It is not lawful to make up lost time by teaching on holidays or Saturdays. All operations of State institutions should be suspended on legal holidays; and Section 1697 of the school law, by a strong implication, seems to exclude Saturdays.

643. A teacher in the district schools is entitled to pay whenever a holiday falls upon a school day as though the school had been kept on that day. Whenever a teacher is excused from work by the other contracting parties, or by the interference of the statute law, it is no fault of the teacher, and the teacher loses no right thereby under the contract. It is no fault of the teacher that work was not done on the holiday, and the teacher was present, or would have been present, and under expenses as usual. Under the previous State administration, the Attorney-General decided that a teacher is entitled to pay for holidays happening in the term the same as for other days.

644. The Legislature did not make certain days holidays for nothing. When the law was passed it was not passed for the simple purpose of whiling away their valuable and expensive time. But when they called the days mentioned in Section 10, Political Code, holidays, their expression became a law; and it is the duty of all Trustees, public officers and citizens to obey this and all other laws, and to see that they are observed. All schools should be closed on legal holidays; and no teacher should ignore the law and teach on a *legal* holiday. Teachers have a right to refuse to teach, and still to claim pay and to be paid for those days. In a case decided by the Chief Justice of the State of Michigan the law on the point is well expressed. He says: "In regard to deductions for holidays we are of opinion that school management should always conform to those decent usages which recognize the propriety of omitting to hold public exercises on recognized holidays, and that it is not lawful to impose forfeitures or deductions for such proper suspension of labor. Schools should conform to what may be expected of all institutions in civilized communities."

645. Teachers should be paid for legal holidays; and any person who compels them to teach on legal holidays breaks the law; and if they teach on legal holidays they break the law.

646. A teacher is entitled to pay for Thanksgiving Day and Election Day, these days being legal holidays.

647. Legal holidays are to be counted as a part of the time to be taught; and they are to be paid for.

648. It has been decided over and over by the courts throughout the United States that teachers employed in the public schools are entitled to pay for holidays, although the school is closed on those days; and they are not required to make up those days.

649. Teachers are employed by the month and not by the day; therefore they are not responsible for the loss of time caused by holidays. They should neither have deductions made from their salaries nor be obliged to make up the time.

650. A teacher has no right to teach on legal holidays, much less to shorten her term by so doing. A teacher is entitled to pay for all legal holidays.

651. A teacher has no right to change holidays to suit his own convenience. The law creates certain holidays with the intention of having those days observed.

652. In case of a holiday during any school month, the teacher should count the month as consisting of nineteen days, and mark the column for that day "Holiday," making up the average on nineteen days.

653. Trustees have a right to declare holidays, whenever they think proper to do so, but they have no right to deprive teachers of their pay for such days. It is not the teacher's fault that the school is dismissed.

654. A teacher is entitled to pay of salary for all legal holidays, and for holidays ordered by the Trustees; but only the number of days actually taught should be counted in making up the average attendance.

655. If a teacher is paid for the entire twelve months, the Trustees should deduct nothing for holidays occurring in a vacation of the school; but, if the teacher receives pay only for the months taught, then he cannot claim any pay for holidays occurring in vacation.

656. The day of election for Trustees is not a legal holiday; but the teacher should receive pay for the day.

657. Holidays should not be counted in the month. If, during the month of April, for instance, there was *one* holiday, the month would consist of nineteen school days, and the report of the teacher should be made accordingly.

658. Teachers employed by the month are entitled to

pay for holidays. Teachers did not establish holidays, and they are not responsible for them.

659. A teacher who through forgetfulness or who purposely teaches on a legal holiday is not entitled to demand *extra* pay for that day. He is entitled to his pay if he does not teach, and he should receive no more if he does teach.

660. Since certain holidays have been established by law, it is understood that all public schools are to be dismissed on those days, and it would be contrary to the spirit of the law to teach on those days, and it would establish a bad precedent to substitute other days for them. If a teacher could make such a change for one day, he could, with as much propriety, make a change for any week when it did not suit his convenience to teach, and thus vary the time of the whole term. Trustees have no legal right to allow it, and they ought to deduct the salary of any teacher for the day taken in substitution for a legal holiday.

661. Teachers have no right to teach on legal holidays and count such time as extra, thereby shortening the term by so many days. They might as well claim that they have a right to teach on Sundays and count that time as part of the term. County Superintendents should discountenance such a course, and Trustees should not allow it.

662. The Trustees can grant a holiday, and make any arrangements to have the time made up which do not conflict with the provisions of Section 1673 of the Political Code.

663. Teachers cannot be required to teach extra time to make up for legal holidays occurring during any school month.

664. Should a legal holiday occur during any school month, the school month is reckoned at nineteen days, and the percentage of attendance, average daily attendance, and average number belonging are estimated on this basis.

665. Holidays must not be considered as "days taught." To so consider them would make a false showing, and this we cannot afford to do. If a holiday occurs in any school month, count nineteen days in making reports.

666. When holidays occur during any school month, the teacher is entitled to pay for such holidays.

667. Holidays are established by law, and the schools should be closed upon those days. The Trustees have no right to order the school to be kept open thereon. If a holiday falls upon a Sunday the day following is a holiday and the school should be closed thereon. Teachers have no right to teach on holidays, and hence have no right to demand pay for teaching thereon. No day can be counted as two days. In making average number belonging and per cent. of attendance count only the days actually taught, excluding holidays. Teachers in reporting to the Superintendent should count holidays as holidays and report the holidays in the column provided for that purpose.

668. It is not proper to conduct the exercises in any school on holidays. The intention of the law is that all schools should be closed on holidays.

669. Trustees cannot legally meet on a legal holiday and transact any business. If the time appointed for the election of a Clerk of the Board falls on a legal holiday, the Clerk should be elected on the Monday following.

670. Teachers have no right to teach upon legal holidays; and if they do teach on those days, they are not entitled to any extra salary for so doing. They cannot teach upon holidays to make up lost time. They are entitled to pay for all legal holidays, and for all holidays ordered by the Trustees.

671. Teachers have no right to teach on legal holidays; on those days the schools should be closed. Teachers cannot teach on a holiday and then take some other day as a holiday. Teachers cannot collect extra salary for teaching on a holiday. Trustees have no right to require a teacher to make up the day on which the school was closed in order to allow the children a holiday.

672. The first day of May is not a legal holiday. (See Section 10 of the Political Code.)

673. Teachers cannot be required to teach on holidays, nor to make up holidays by teaching extra days. They are entitled to their salary for holidays ; but are not entitled to extra salary if they teach on such days.

INCORPORATED CITIES OR TOWNS.

674. By Section 1576 of the Political Code, "Every county, city or incorporated town, unless subdivided by the legislative authority thereof—that is, by the Board of Supervisors, or Board of City Trustees—forms a school district." The Supervisors can, upon petition, annex to any city or incorporated town, for school purposes only, the remainder of the distrist or districts from which said city or town was organized, or any part thereof; and when any territory shall be thus annexed to a city or an incorporated town, the Board of Education, or Board of School Trustees of said city or town shall have full control, for school purposes only, of the territory or property annexed.

675. There is no decision of the Supreme Court, or of any Court, so far as we know, in reference to the matter of uniting territory lying outside of cities of the fifth class to said cities. The entire law relative thereto is contained in Section 1576 of the Political Code and Section 795 of "An Act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, as amended March 10, 1891, and March 23, 1893.

676. There is nothing in the law that authorizes or empowers a Board of Supervisors to set off a part of an incorporated city into a district outside the limits of the incorporation. The authorities of such a city may subdivide it into districts (see Section 1576 of the Political Code); but unless this is done, every incorporated city forms a school district. By the same Section and by Section 795 of "An Act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, amended March 10, 1891, and March 23, 1893, outside territory may be annexed to a city; but nowhere is authority given to exclude or set off territory from the incorporation.

677. Every incorporated city or town forms a separate school district unless subdivided by proper authority. This proper authority is the legislative authority of such city or town, and not the Board of Supervisors. Section 1576 expressly says "by the legislative authority thereof." The Board of Supervisors is not the legislative authority of a city or town. The Trustees of the incorporation—

not the School Trustees—may subdivide the incorporation into districts; but there is no law that empowers either the Board of Supervisors, the Board of Education, or the Board of School Trustees to do so.

INDIAN CHILDREN.

678. Trustees of a school district are not required to do anything for the Indian children residing on rancherias.

679. The children of Indian parents who are taxed are rightly entitled to attend the public schools, unless separate schools are established for them as provided in Section 1662 of the Political Code. If the Indian children are not kept in cleanly condition, Boards of Trustees are empowered by Section 1662 of the Political Code to exclude them from the schools.

680. The children of Indians who pay taxes are rightly entitled to attend the public schools.

681. I am of opinion that the children of Indian parents, "who have settled upon Government land and have U. S. patents therefor," are "school census children" within the meaning of the law. See Section 1662 of the Political Code, as amended, Statutes of California of 1891, page 160; also Wysinger v. Crookshank, 82 Cal., 592. (Attorney-General Hart.)

682. I have held, and Attorney-General Hart concurs in opinion with me, that the children of Indian parents who are not living in the tribal relation are entitled to be enrolled as census children; especially is this the case when their parents have proven upon lands. The property of Indians is assessable.

683. The children of Indian parents who have settled upon Government lands, and have U. S. patents therefor, are school census children within the meaning of the law. The children of Indian parents who are not living in the tribal relation are census children.

684. If the parents of Indian children still maintain their tribal relation, the children are not entitled to attend the public schools, unless they are living under the guardianship of white persons. If the parents have given up their tribal relation, they are entitled to send their children to the public schools, except as provided in Section 1662 of the Political Code; but they must keep their chil-

dren in proper condition; otherwise it is proper and right for the Trustees to exclude them from the schools.

INSTITUTES, TEACHERS'.

685. Time spent by the teacher in attending the Institute in her county, and legal holidays are included in the eight months. A school in which the teacher taught 154 days, was present at the Institute five days and there was one holiday, is regarded as a school of eight months.

686. Teachers have a right to demand pay for the time during which they were attending at the Institute, if such time was within the time covered by the contract.

687. A Superintendent may call the Institute in any part of his county.

688. No teacher who absents himself from the Institute is entitled to pay during such absence, whether employed in teaching or otherwise. The law says plainly that every teacher employed in a public school in the county must attend the Institute and participate in its proceedings. As a penalty for non-attendance, County Boards have the power to revoke the teacher's certificate for unprofessional conduct. *Prima facie*, such disobedience of the law, and contempt of the summons of the County Superintendent, would be *unprofessional conduct*, and it would be incumbent upon the accused party to show, in any particular case, that the offense did not amount to that.

689. The organization of the Teachers' Institute is in the discretion of the County Superintendent. Generally he would consult some one or all of the teachers; but he is not bound to do so.

690. It is only when the Institute is held during the time that teachers are employed in teaching that their pay must not be diminished by reason of their attendance.

691. County Boards of Education have the right to refuse to renew the certificates of persons who have failed to attend the Teachers' Institute.

692. Section 1543 makes it the duty of the County Superintendent to report teachers who fail to attend the Institute to the County Board of Education, and it is clearly the duty of the Board to take such action as they deem expedient and wise. Absenting one's self from the ses-

sions of the Institute and thereby violating the law is unprofessional conduct, and certificates may be revoked for unprofessional conduct. Sickness should, of course, excuse a teacher from attending.

693. The Superintendent must report the names of all teachers in the county who fail to attend *regularly* the sessions of the Institute. Any teacher failing to attend violates the law as laid down in Section 1560; and this violation should be regarded by the Board of Education as unprofessional conduct, and be dealt with as such according to Section 1771. There is no law for the suspension of certificates for this cause; but they may be revoked. A Superintendent would be justified in withholding a warrant, the teacher having failed to perform the duties required by law, even though the teacher should teach during the sessions of the Institute.

694. While the law does not *require* that a County Superintendent should give each teacher a personal notice of the time and place of holding the Institute, it is desirable to do so, because many of the teachers do not take county papers, and some are at a distance from the county seat. At least a postal card should be sent, so that none may make ignorance of the time and place an excuse for non-attendance.

695. Sickness, so great that a teacher could not attend school if it were in session, fire, and flood are valid excuses for absence from Institutes.

696. Section 1560 of the Political Code makes it obligatory upon the part of teachers to attend the Institute in their county. If a teacher declines to obey the law, the County Board should notify such delinquent to appear before it and show cause why his certificate should not be revoked for unprofessional conduct.

697. Ill health should not be regarded as a valid excuse for failure to attend the County Institute, unless the allegation of such excuse is accompanied by a physician's certificate to the effect that the person was absolutely too sick to attend to any business whatever.

698. A teacher who fails to attend the County Institute and is afterwards excused by the County Board is not entitled to any pay during the time of absence.

699. If a teacher has been engaged to teach a certain school in a county, he is obliged to attend the Institute, even though his school has not opened for the term.

700. If a teacher has been engaged to teach a certain school in a county, he is not entitled to salary for the week during which the Institute is held, unless the school was to commence that week.

701. If a teacher has been engaged to open school on a certain date, it is not right to refuse to pay him for the week, if he was prevented by the Institute from opening school on that date.

702. It is at the option of the Superintendent when the Institute shall be held; and teachers must attend it wherever held.

703. Refusal upon the part of a teacher to speak upon an educational topic at a Teachers' Institute would be justly considered "unprofessional conduct." The law makes it the duty of the County Superintendent to preside over and conduct the Institute, and it also makes it the duty of every teacher to participate in the proceedings of such Institute.

704. Duties as delegate to a religious convention would not be a sufficient excuse for non-attendance at an Institute.

705. A teacher of a joint district should attend the Institute in the county which has the greater number of pupils. But in special cases, the two Superintendents can make such arrangement as they please for the accommodation of the teacher. But it should be well understood between them *which* Institute the teacher is to attend.

706. Teachers are not entitled to pay for attending the County Institute after the close of their schools. Section 1563 says that teachers must have their pay, if the Institute is held during the time in which they are employed in teaching. If the Institute is held during the last week of the term, the teachers are as clearly entitled to pay as if it came during some other week.

707. The County Superintendent has not the power to excuse a teacher from attendance upon the Institute. He must report to the County Board the name of every teacher who does not attend the sessions regularly. The

law gives him no discretion in the matter, and no power to excuse from attendance thereon. The County Board must deal with absentees.

708. There is no law authorizing Trustees to pay the traveling expenses of teachers when attending Institutes. In Section 1563 of the school law, the words "their pay must not be diminished by reason of their attendance" have reference to salary.

709. There is no penalty provided in the law for failure on the part of a Superintendent to call an annual Institute in his county. But Superintendents, before entering upon the discharge of their duties, take an oath to support the laws. Failure is in violation of such oath of office.

710. Whilst there is no law requiring teachers to attend their County Institute, occurring during the time that such teachers are unemployed, I am fully satisfied that it is their duty to do so. The mere fact that a *vacation* occurs during the time at which the Institute is held does not absolve a teacher from compliance with the law. If the teacher is *not employed* he could not be held amenable; but a vacation does not form any excuse for non-attendance. Section 1563 of the Political Code is plain. It is supposed, and ought to be, that teachers in our schools are willing and ready to do all in their power to better qualify themselves for the discharge of their duties to themselves and to the schools.

711. I think, under Section 1791 of the Political Code, Statutes of 1891, page 163, city teachers are employed in the public schools of the county within the meaning of Section 1560 of the Political Code, and must participate in the proceedings of the County Institute. This leads me to think that under Section 1565 of the Political Code, each applicant for a certificate, except temporary, upon presenting his application must pay to the County Superintendent a fee of $2, to be deposited to the credit of the Teachers' Institute and Library Fund. (Attorney-General Hart.)

712. Teachers in joint districts may elect which of the County Institutes they will attend. There is no law upon this subject. The Superintendent of the county in which they do not attend should be notified of their intention to attend in the other county.

713. The claim for teachers' salaries during the session of a County Teachers' Institute is a just and legal one, and must be paid. Section 1563 of the Political Code very clearly states the matter, and Trustees, as such, are responsible.

INSURANCE.

714. A sum of money paid to the Trustees in satisfaction of a policy of insurance on a school-house that has been burned should be deposited with the County Treasurer to the credit of the building fund of the district. This is what would be done with a building fund, however derived, according to Section 1886 of the Political Code.

715. The Board of Trustees, on receiving the insurance money for a school-house destroyed by fire, should deposit it in the County Treasury to the credit of the district, and it should be drawn only by the Superintendent's requisition, made on the order of the Trustees, accompanied by itemized bills, according to Section 1543 of the Political Code.

716. A school-house is insured for $300 and the library for $200; all is consumed by fire, and the policy is paid in full. The $300 and the $200 respectively should be placed in the County Treasury to the credit of the district—the former to the credit of the building fund and the latter to the credit of the library fund.

717. The law makes it the duty of the Board of Trustees to have control and to care for the property of the district. The insuring against fire is a proper care and precaution. The premium on the insurance should be paid from the county fund. The Attorney-General agrees with this opinion.

718. A Trustee, acting as an insurance agent, cannot solicit insurance upon any property which is under the control of the Board of which he is a member.

719. A Trustee who is an insurance agent cannot legally insure the school property in his district, and receive a commission on the same.

720. According to Section 1621 of the Political Code, Trustees cannot use the school moneys received from the State and county apportionments for any purpose other than the support of schools for the current year, until

after an eight months' school has been maintained. Hence, an eight months' school must be taught before the Trustees can use the funds for the purpose of insurance.

INTEREST.

721. There is no law allowing interest on deferred payments from either State or county funds.

JANITORS.

722. Trustees are required to appoint a suitable person to sweep and take care of the school-house, and if they fail to do so the Superintendent may appoint a person for that purpose.

723. The Trustees of a school have no right to compel the scholars of a school to sweep the floor.

724. If the Board of Trustees do not appoint a janitor to keep the school-house clean, the teacher has not the authority to require pupils to do so. Section 20 of the Rules and Regulations of the Public Schools of California, and Subdivision 7th of Section 1617 makes provision in such a case.

725. Boys cannot be required to carry water, nor can pupils be required to take home towels to be washed. These are duties that belong to the janitor.

726. When no specified sum has been agreed upon between Trustees and janitor, and no payment has been made for two or three years for want of funds, after an eight months' school has been maintained, the Trustees can pay him out of any balance remaining in the county fund.

727. The rule originally passed by the State Board allowing teachers to require pupils to sweep the school-house, was repealed by the State Board of Education, in accordance with a decision of the Attorney-General, rendered December 15th, 1888, in which he said: "It is inconsistent with the laws of this State for the Board to make a rule which dispenses with one of the duties of Trustees, as provided by law, to employ a janitor."

728. A teacher has no right to insist upon pupils doing janitorial work.

729. Children attending school cannot be compelled to chop wood; this is the duty of the janitor.

730. A janitor should keep the school building and yard in an orderly and cleanly condition. He should bring wood and water where necessary, make fires, etc. These duties should be performed as often as the nature of the work may require.

731. When the Trustees and the Superintendent fail to appoint a janitor, the teacher cannot legally claim pay for the services without a special agreement. It would, however, be a matter of justice to allow a teacher pay for the work.

732. If through the neglect or refusal of Trustees to appoint janitors for the schools the Superintendent is compelled to appoint them, the Trustees cannot refuse to issue orders for the payment of such janitors.

733. The law requires Boards of Trustees to appoint janitors, and directs the Superintendent, in case they do not, to appoint.

733½. The janitor of a school has no right to open the rooms of the school building for the admission of pupils. In order that the school property may be properly cared for, the janitor should be held responsible, and the rooms should not be left in such condition that any parties can enter them, except under the notice of the Principal or teachers. The Principal has, and of right ought to have, the charge of the school building. It would be entirely unreasonable to say the Principal should not have keys to the rooms of the school building. The Principal has the right to direct the janitor in reference to his work. For any Board to make a rule making the janitor independent of the Principal would be unreasonable and wrong.

734. The Clerk of a Board of Trustees has no authority to employ a janitor for the school; the duty belongs to the Board of Trustees. If the Trustees fail or refuse to appoint, the Superintendent of Schools must do so. (See Sections 1607 and 1543, Subdivision 12.)

KINDERGARTENS.

735. The only law relating in any way to kindergarten work is that contained in Section 1617, Subdivision 9, and Section 1662. Inferentially this gives to Boards of Education and Boards of Trustees in cities and towns the right to establish kindergarten schools, and the Trustees would

have the right to purchase such material out of the county fund as they may deem necessary for the conduct of the schools.

736. The law provides that in cities and towns in which the kindergarten has been established, children of four years may be admitted. There is no provision in the law for excluding any children from being counted, in making the average attendance, who are lawfully entitled to attend a school.

LAND, DEDICATION OF.

737. If land has been dedicated for school purposes, and has been accepted by the district, the dedication cannot be revoked; the district can hold the land, even though the dedication and acceptance were oral or merely implied from the conduct of the parties. (See Carpenteria School District v. Heath, 56 Cal., 478.—Oregon Sanders, Second Deputy Attorney-General.)

LIBRARY FUND.

738. The library fund is a per cent., not less than five nor more than ten, as indicated by the Trustees, taken from the county fund. This fund must be expended in the purchase of apparatus or books which have been adopted by the County Board of Education, and for no other purpose whatever.

739. Trustees have no right to use the library fund, or any part of it, in the purchase of text-books for use in the school.

740. No portion of the library fund can be used for any such purpose as the purchase of furniture any more than it can be used for building the school-house. Under the term "apparatus" are included such things as maps, globes, charts, philosophical and chemical apparatus, etc. —distinctively appliances for study. Should Trustees draw an order upon the library fund in payment for school *furniture* of any kind, the law would not justify the Superintendent in drawing a requisition upon such order.

741. There is no law which authorizes Trustees to pay the Librarian of the district library. In Section 1617, Subdivision 11th, power is given the Trustees simply "to appoint District Librarians," omitting all mention of compensation. The naming of District Librarians in a subdi-

vision by itself, carefully omitting all mention of compensation, instead of including it among the employés whose compensation the Board may "fix and order paid," clearly indicates that the Legislature intended that the Librarian should serve without compensation.

742. In case of the division of a district, the library would not be divided, but would remain the property of the old district. In the case of the erection of a second building in the same district, the Trustees would have power to divide the library between the school-houses. (See Section 1715 of the Political Code.)

743. Under Section 1712 of the Political Code, no part of the library fund can be expended in the purchase of an organ.

744. According to Section 1712 of the Political Code, the library fund is to be expended for "books for a school library" and for school apparatus. Text-books for teachers are not books for a library, and therefore, "text-books for the use of teachers" cannot be purchased with the library fund.

745. Neither teachers' desks nor library desks can be purchased with the library fund.

746. Bookcases being furniture cannot be purchased with library moneys.

747. Article XI, Section 18, of the Constitution, provides that no school district shall incur any indebtedness, in any manner or for any purpose, exceeding in any year the revenue provided for that year. If the library fund is exhausted the Trustees cannot this year incur any liability or indebtedness for the year to come.

748. The library fund cannot be used for the purchase of an organ.

749. Library funds to the credit of a district, and not expended at the end of the year, are not to be reapportioned.

750. The library fund is annually taken from the school fund, and cannot be seized upon for redistribution; it is set aside for a specific purpose.

751. It would be illegal for the Trustees to use the library fund for the purpose of purchasing an organ.

752. The library fund cannot be used for the purchase of mottoes, historical engravings, paintings, or portraits of eminent persons. These are not school apparatus, and the law says the fund may be used for apparatus and for books.

753. Under the provisions of the Constitution, and under the general provisions of law bearing upon the matter, the Trustees of a district have no right to incur any indebtedness, or enter into any contracts in excess of the money on hand at the date of the contract. Hence they cannot purchase more books than can be paid for with the money in the fund at the date of purchase.

754. The Trustees have no right to use the library fund for the purchase of a library record book. It can be used only for the purchase of school apparatus and for books for a school library.

755. The library fund cannot be legally used for anything but the purchase of library books and apparatus, such as maps, charts, globes, etc.; *not for furniture.*

756. The County Superintendent not only has the right to refuse to draw a requisition in payment for any books for the district library which are not on the list adopted by the County Board of Education, but it is clearly his duty to draw no requisition for such books.

757. The balance remaining in the library fund at the end of any school year should not be reapportioned. The last clause of Section 1621 evidently does not mean to include the library fund.

758. No Board of Trustees has a right to expend from the library fund more money than the year's apportionment.

759. The library fund cannot be turned over into the general fund and used for the payment of teachers' salaries. This fund can be used only for the purchase of such books or apparatus as may have been adopted by the County Board of Education. With a proper teacher the school library is a very important instrument in the cause of popular education. . If a child is only taught to read well and to read good books, he has found the key that will unlock to him all other knowledge. Children should be taught to use the library. Nothing better can be done to promote

the interests of education in a district than to secure such a teacher as will direct pupils in careful reading.

760. Present Trustees cannot make contracts binding upon their successors to pay out the library fund of future years. The Attorney-General says: "No school district can incur any indebtedness or liability *exceeding in any year the income and revenue provided for it for such year*, except as provided in Section 18, Article II, of the Constitution; and persons dealing with the district in violation of this section must take their chances for payment of their claims."

761. The library fund, under the law, can be used only for the purchase of miscellaneous library books, supplementary books, or apparatus, adopted by the County Board of Education. It is not lawful to use this fund for the purchase of school books for the pupils of the district; such books can be purchased only with county fund.

762. There is no authority given in the law for transferring the library fund to the school funds, or by which the library fund can be used for any purpose other than the purchase of library books or apparatus.

763. Trustees have no right to appropriate the library fund to any purpose except that of purchasing library books, including books for supplementary work, and for apparatus. Text-books, even for those unable to purchase them, cannot be paid for out of the library fund, and only such books or apparatus as have been adopted by the County Board can be paid for out of this fund.

764. A district cannot be held liable as such for the payment of any indebtedness contracted in excess of the school moneys accruing to the district for the school year in which the contract is made. If Trustees contract any liability against the library fund of the district in excess of the moneys apportioned to said fund for the school year, the Superintendent should refuse to issue a requisition in payment of the excess.

LIBRARY, SCHOOL.

765. A teacher should be allowed the use of the school library without charge. He is the proper person for Librarian during the school term.

766. When a new district is cut off from an old one the Trustees of the old district have not the right to give a part of the library books to the new district. The parents or guardians, by petitioning for a new district, voluntarily relinquish all right to the property, or any part thereof, of the old district. As well might the Trustees divide the desks and other furniture as divide the library.

767. No books can be purchased for school libraries except such as have been adopted by the County Board of Education. These Boards alone can make lists of books and apparatus for school libraries.

768. The Trustees of the district have charge of the district library. The State Board of Education has left to the local Trustees the designation of the particular days and hours when it shall be kept open for drawing and returning books. The library should not be kept open *only in vacations.*

769. Under Section 1715 of the Political Code, the library, when practicable, must be kept in the school-house. The Board of Trustees have not the power to keep the books elsewhere.

770. No persons, except pupils attending the school with which it is connected, are entitled to the privileges of the district library, until they have paid the fees provided for by the rules of the State Board of Education. The Trustees have no right to grant any person the free use of the library. The parents of pupils have no right to draw books from the library, unless they have paid the fees provided for. When a child leaves the school, the right to draw books from the library ends, unless fees are paid for the privilege.

771. Writing paper, pens, chalk crayons, slate pencils, and books for children of parents unable to pay for them, should be paid for out of the county fund. The library fund must be expended in the purchase of school apparatus and books for a school library; and although books purchased for the children of parents unable to pay for them are to be kept in the library when not in use, they are not books for the library, but books for children of this class. Nor are the other articles apparatus under the interpretations of that term made by the different Superintendents of Public Instruction during twelve or fourteen years past.

772. Unless the Penal Code is on the list of books prescribed by the County Board of Education, it is unlawful to purchase it with the library fund.

773. The law makes it the duty of the County Board of Education to adopt a list of library books, etc., for school libraries, and the County Superintendent not only has the legal right to refuse to draw his requisition for books or apparatus not on such list, but it is his duty to refuse to do so.

774. A school has no chair or desk for the teacher, and no bookcase for the library. It is most certainly the duty of the Trustees to provide a chair and desk for the teacher at the beginning of the term. They should also provide some kind of case for the library, as the law makes them accountable for the proper care and preservation of the library.

775. The Trustees cannot remove the library, furniture, etc., from the school-house in which the school has been maintained, without a vote of the district.

776. According to Section 1716 of the Political Code, any resident of a school district is entitled to obtain books from the school library upon payment of such monthly fee as may be prescribed by the Trustees. If no fee has been prescribed, residents of the district may obtain books without charge.

LIBRARY, TEACHERS' REFERENCE.

777. As the Superintendent disburses the money belonging to the Teachers' Reference Library Fund, he should be the person to select the books, and the library should be kept in his office, where the teachers can have access to it.

778. One-half of the Teachers' Library Fund can be used in defraying the expenses of County Institutes; the other half must be expended for books. The County Superintendent is the proper person to select the books.

779. Books of poetry or miscellaneous prose should not be included in the Teachers' Reference Library. If such books are purchased with the Teachers' Library Fund, the purposes for which this fund was established will be entirely defeated. It was the distinct intent of this law to found a teachers' *professional* library, which

would give them access to a wider range of strictly educational literature than they would otherwise have.

780. The County Superintendent is the proper person to select and purchase the books for the Teachers' Reference Library. It is as much his duty to select the books which he thinks will be most serviceable to the teachers of his county as it is to select the subjects and arrange the programme for his Institute.

781. The County Superintendent, under the law, has charge of all matters connected with the "Teachers' Reference Library." It is his duty to select the books, purchase and pay for them and to take charge of them; in short, he has the whole control. No fee can be charged; every teacher in the county is entitled to the use of the library. The library is provided for the use of the teachers without the necessity for any admission fee, or fee of any kind whatever.

782. The County Superintendent of Schools has entire charge and control of the Teachers' Professional Library, and has the right to select and purchase such books of a professional character as he may deem advisable. While such is the case, it would be well for him to counsel with the County Board of Education, and with the teachers of the county, in reference to the selection of books, they being all interested therein.

783. The intent of the law is that the Teachers' Library Fund shall be expended for books that particularly appertain to the profession of teaching, and not for the purchase of such reference books as the Encyclopedia Britannica or for any other reference books.

MEETINGS, DISTRICT.

784. Meetings for the purpose of relocating schoolhouses can be called in no other way than by the Board of Trustees in the manner provided in Section 1617 of the Political Code.

785. Under the twentieth subdivision of Section 1617 of the Political Code, the electors, after they have met for the purpose of discussing the business before their body, may adjourn from time to time, as found necessary. When they finally resolve to vote upon the question, the vote may be taken by ballots or by ayes and noes, as they may

determine. If the electors so resolve, they can adjourn till evening, and finally determine the matter then.

786. A meeting duly called in accordance with Section 1617 of the Political Code, subdivision 20, can determine, by a *majority vote*, the change of location of a school-house, and place it wherever in the district it pleases.

787. The twentieth subdivision of Section 1617 of the Political Code, in much detail, gives the length of notice, the organization of the meeting, and forbids the transaction of business not specified in the call, etc., etc. A meeting called without the concurrence of a majority of the Trustees would not be legal, even though such meeting should be directed by a majority of the electors of the district.

788. When a meeting has been called in the manner prescribed in Section 1617, for the purpose of determining or changing the site of school-houses, or concerning the purchase or sale of lots, and of building school-houses, the Trustees should submit their ideas and plans as to location and architecture of the school-house, and then the meeting can approve, amend or reject those plans, and give their instructions to the Trustees as to entirely different plans, should such be preferred by the meeting.

789. If the voters of a district have voted to remove the school-house, it is the duty of the Trustees to carry out the will of the people.

790. A majority of one is sufficient at a meeting called by the Board of Trustees for the purpose of selecting a school site, and the purchasing or leasing of same, and for the building of a school-house thereon.

791. The law empowers the qualified electors of a district, at a regularly called meeting, to instruct the Trustees as to the use of the school-house for other than school purposes. (See Section 1617 of the Political Code.) In the absence of such instruction from the district, the Trustees can decide.

792. The Trustees may be instructed by the qualified electors of a district, at a regularly called meeting, as to the use of a school-house for other than school purposes. The Trustees should hold the parties so using the school-house responsible for any damage to it.

793. The Trustees are in all cases bound by the instructions of the electors of the district when given at a meeting called for any particular purpose. If they refuse to comply with such instructions, there exists good cause for action against them. (See last clause of subdivision 20 of Section 1617 of the Political Code.)

794. Subdivision 20 of Section 1617 of the Political Code provides that "upon petition signed by a majority of the heads of families resident in the district," the Trustees "*must* call meetings of the qualified electors of the district for *determining* or changing the location of the school-house; and the Board of Trustees shall, in all cases, be bound by the instructions of the district meeting."

795. By Section 1617 of the Political Code, subdivision 20, subhead 1, the qualified electors of a school district can instruct the Board of Trustees in regard to the use of the school-house for other than school purposes; the meeting for this purpose must be called upon a petition being presented to the Trustees, signed by a majority of the heads of families residing in the district. The Trustees must comply with the instructions given by said meeting. The Trustees are responsible for the care of all school property; if the property is damaged by their action they are responsible. If at a regular or special meeting, held as required by subdivision 1 of Section 1617 of the Political Code, a majority of the Trustees vote to let the school-house for other than school purposes, they can so let it; but if any citizen of the district objects, they must not let the building, except instructed to do so by a district meeting duly called.

796. The Board of Trustees are bound by the instructions of the district meeting relative to the changing of the location of the school-house; and there is no provision of law by which the Board can locate the building.

MEETINGS, TRUSTEES.

797. Each of the Trustees must have notice of every meeting in order that their action may be valid. If all three have notice, but one does not attend, the other two can act; but, in order that their acts may be valid, the one who remains away must have had notice.

798. The transactions had at a Trustees' meeting, which

was held without giving due notice to *all* of the Trustees, would not be legal. (See Section 1617 of the Political Code, subdivision one.)

799. At a meeting of District Trustees it was decided to hold regular meetings on the last Friday of each month, at four o'clock P. M. According to Section 1617 of the Political Code, subdivision one, it is the duty of the Clerk to send written notice to every member of the Board.

800. All business transacted by Boards of Trustees, *except in meetings*, either regular or special, is illegal and void.

801. A Board of Education and a Board of Trustees are public bodies. Meetings thereof must be public; and any party has a right to be present thereat.

802. According to Section 1617, subdivision 1 of the Political Code, Trustees must transact their business at regular or special meetings called for the purpose, notice of which shall be given to each member. If this law is not complied with any business transacted is illegal.

803. Trustees must transact all business at either regular or special meetings; otherwise the action of the Trustees is illegal and void. (See Section 1617, subdivision 1.)

804. No action of a Board of Trustees is legal, unless it is had at a regular meeting, or at a special meeting of which every member has had notice.

MORALS AND MANNERS.

805. Section 1667 of the Political Code requires instruction to be given in manners and morals; also on the nature of alcoholic drinks and narcotics. This does not require the use of text-books. Text-books, unless ordered by the County Board of Education, are not imperatively necessary if the teacher is qualified to teach without them.

806. The amendments to Section 1667 of the Political Code do not affect the giving of instruction in temperance, narcotics, or morals and manners. This section should be carefully observed by all teachers. The instruction can be given as well and even better by oral means, as through the medium of text-books. It is not the intention to interfere in any way with temperance instruction in the

schools; on the contrary, teachers are enjoined to be faithful in seeing that proper instruction is given in these important matters. Children should not only be taught the nature and effects of alcoholic drinks and narcotics, but they should be made to avoid the effects.

MUSIC.

807. The teaching of music is compulsory. The word *must*, in Section 1665 of the Political Code, does not mean *may*.

808. Instruction must be given in music and drawing, according to the course of study. Any teacher who fails to carry out the course of study is guilty of a violation of the law, and should not be entitled to her salary.

809. It is imperative, under the law, that music should be taught in all schools, and it is the duty of all Superintendents and Boards of Trustees and Boards of Education to see that it is taught.

NORMAL GRADUATES.

810. Normal school graduates are entitled to first grade certificates, even when without experience. There are none without the *effects* of experience in handling and teaching classes themselves, and in observing others do the same. This is notably true since the strong development of the *training* departments required by the Trustees of these schools. The normal school whose graduates are unworthy of first grade certificates ought to have a change of faculty, or else be closed.

NORMAL SCHOOLS.

811. There is no law districting the State with reference to attendance at the State Normal Schools.

812. Experience had by a teacher while a member of the State Normal School, as a pupil in such school, is not recognized by the State Board of Education.

813. No normal class, except the normal class in the San Francisco Girls' High School, nor normal diploma, unless granted by a State Normal School in the proper sense of that term, can be recognized under our law. The mere fact that the normal class is connected with a State University does not signify, unless the University has

been accredited by the State Board of Education, as provided in Section 1775 of the Political Code.

814. Boards of Education may recognize San Francisco normal class diplomas, but they are not compelled to do so.

815. Section 1503 of the Political Code, as amended March 23d, 1893, has reference only to the State Normal Schools of California.

816. No Board of Education in this State can legally recognize normal school diplomas, except such as have been granted by State normal schools in the United States; nor is any Board authorized to grant any other than primary or grammar grade certificates upon normal school diplomas.

OATH, OF OFFICE.

817. If a Trustee does not sign his oath of office within ten days after *receiving notice* of his election, his election is void, and the Superintendent must appoint. Even if the failure to sign is a matter of mistake, the position is vacant.

818. If a Trustee does not qualify within ten days after receiving notice of his election, or within fifteen days after the commencement of his term of office, when notice has not been given, his place becomes vacant, according to Section 907 of the Political Code, and the old Trustee holds over.

819. A Trustee cannot file his oath of office *after* the expiration of ten days from the time he received notice of his election or appointment. (See Section 907 of the Political Code.)

OFFICE.

820. A member of a County Board of Education, being a school teacher, goes into another county to teach during the summer, leaving his household goods, and intending to return in the fall. Held by the Attorney-General that a vacancy in the Board would not be created. The temporary absence from the county of a member of the County Board of Education will not create a vacancy in the office of such officer. (Attorney-General A. L. Hart, Aug., 1881.)

821. To place the power of removing a Trustee in the hands of the Superintendent would be dangerous. Section

996 of the Political Code prescribes how vacancies occur. If a Trustee violates the law, or neglects his duty, he can be removed by appeal to a competent tribunal.

822. Section 841 of the Political Code provides that no person is capable of holding a civil office who, at the time of appointment, is not twenty-one years of age.

823. There is no provision of law which will prevent a member of the County Board of Education from acting as Deputy Superintendent of Schools, unless he receives over seventy-five dollars per month as compensation for his services as a member of the Board. Section 843 of the Political Code provides that no county officer must be appointed to act as the deputy of another when the pay of the office which he holds equals or exceeds the sum of seventy-five dollars a month.

824. Women have the right, under the law, to hold educational offices. They have not the right to vote.

825. By Act of the Legislature, approved March 12th, 1874, all women over the age of twenty-one years, and who are citizens of the United States, and of this State, are eligible to educational offices; but they are not entitled to vote.

826. Section 841 of the Political Code explicitly denies the privilege of holding any civil office to any one not a citizen of the State. A year's residence is necessary to acquire citizenship.

827. According to Sec. 1600, Sec. 58, and Sec. 1083, a party whose name is not on the "Great Register" cannot legally hold the office of School Trustee. If such a party is elected his place should be declared vacant, and the Superintendent should fill the vacancy.

828. Under the law, any citizen who is an elector is eligible to any office in the gift of the people. The ability to read and write does not enter as a factor in the qualification to hold the office of Trustee; but common sense would dictate that one unable to read and write is but poorly qualified for a position of so great responsibility.

829. The office of Trustee is not an office of *profit* under the law of this State; hence there is nothing to hinder a Postmaster from holding said office of Trustee, if his salary

as Postmaster does not exceed five hundred dollars. (See Constitution, Art. IV, Sec. 20.)

830. There is no law in this State requiring a candidate for office to be a property holder. Any elector is entitled to hold office if the people think proper to elect him.

831. The party who is voted for for Trustee must be a resident and a qualified elector in the district, except that women may be voted for for school offices if they are residents of the district and citizens of the United States and of this State.

832. By the provisions of an Act approved March 30th, 1874, any officer who shall be guilty of a willful violation of any of the provisions of the statute under which he was elected, or of any other statute prescribing or defining his duties and powers, may be removed from office in the manner therein provided.

OFFICERS.

833. Section 4256 of the Political Code makes it the duty of the District Attorney to give, when required, and without fee, his opinion to county, district and township officers on matters relating to the duties of their respective offices.

834. The acts of a *de facto* officer are valid. (See note to Section 220 of the Political Code.)

ORDERS, OF TRUSTEES.

835. If a Clerk refuses to draw an order on the County Superintendent, and the other two Trustees thereupon draw such order upon him, it is his duty to draw his requisition on this order.

836. At least two Trustees must sign the order on the Superintendent for a requisition on the Auditor.

837. For their own protection as well as for the protection of the district, Superintendents should require all orders to be signed by at least two of the Trustees. The business of the Board of Trustees should not be done by authorizing the Clerk to sign "by order of the Board."

838. If the Trustees' order overdraws a fund to the credit of the district, the order should be returned for correction, with instruction from the Superintendent as to the

amount in the fund subject to requisition, and a new order should be drawn for the amount available.

839. An order on the county fund is presented with a bill of six items. Five of the items are legal charges against the fund; but the sixth is not. In such case the illegal item might be disallowed, but the better plan would be to return the entire bill for correction.

840. It is not lawful for a District Clerk to sign another Trustee's name to an order, unless he holds a power of attorney to that effect.

841. Trustees should not sign orders in blank. It is not a safe way to transact business.

842. All orders for a teacher's salary should be signed by at least two Trustees. The fact that one is elected Clerk does not authorize him to draw orders without further action of the Board.

843. Any balance on a Trustees' order for teaching is payable at any time after the order is drawn, whether it be after the close of the school year or not, provided there is money in the Treasury to the credit of the district for the year in which the service was rendered.

844. The law is silent as to the right of Trustees to draw an order on any fund before there is money in the fund to pay the order. I think the Trustees may draw the order, showing the indebtedness, provided they do not exceed the estimate of the County Superintendent as to the money to come into the fund.

845. The Trustees have no legal right to draw an order in favor of a teacher for anything that has not been earned. When a teacher loses time during a school month, he is entitled to make it up, and when so made up he is entitled to pay.

846. There is nothing in the law regulating the time for making out requisitions for warrants for teachers' salaries. Throughout the country districts, the usual custom is for the Trustees to make out the requisitions upon the County Superintendents for warrants at the expiration of the school month; in cities having Boards of Education the matter is subject to the rules adopted by such Boards.

847. The Trustees of a district may, if they choose, draw

an order or requisition for the teacher's warrant for salary, even though the funds are not apportioned ; but no such requisition must be in excess of the Superintendent's estimate of funds. The Superintendent cannot draw his requisition upon the County Auditor for a warrant, unless there is money in the Treasury to pay such warrant.

848. The State Superintendent has no power to order Trustees to draw a warrant for any purpose. Should Trustees refuse to draw warrants the courts can attend to the matter when applied to.

ORGANS.

849. Under Section 1712 of the Political Code no part of the library fund can be expended in the purchase of an organ.

850. The library fund cannot be used for the purchase of an organ.

851. It would be illegal for the Trustees to use the library fund for the purchase of an organ.

852. An organ cannot be considered as school apparatus.

853. The purchase of an organ cannot be included in "the support of the school." Hence the Trustees have no right to cut the school term down to six months, and use the money thus saved, and which was intended for teachers' salaries, in the purchase of an organ, until after an eight months' school has been maintained.

854. An organ cannot be considered as school apparatus, and, therefore, cannot be purchased with the library fund.

855. It has often been decided by both State Superintendent and Attorney-General that organs being school furniture, *cannot* be purchased with the library fund. Nor can they be paid for out of the county fund until after an eight months' school has been maintained.

856. Organs are school furniture, and cannot be purchased with library fund.

857. Trustees cannot expend the county fund of their district in the purchase of an organ for the school until after an eight months' school has been maintained.

PLANS, FOR SCHOOL-HOUSES.

858. The County Superintendent cannot reject the plans for a school-house on the ground that the *site* is unhealthy.

PRINCIPALS.

859. Principals of schools, by Section 5 of the Rules and Regulations adopted by the State Board of Education, shall be held responsible for the general management and discipline of their schools, and the studies pursued ; and the assistant teachers shall follow their directions and cooperate with them, etc.

860. The power to classify the pupils of a school belongs to the Principal ; and the teachers must follow their directions.

861. The Principal of a school is certainly entitled to a key for the building, and for any room in the building ; and it is the duty of the Board of Education or Board of Trustees to furnish the keys. Janitors are under the direction of the Principals, and must follow such directions.

PRINTING.

862. The bill for printing legitimate matter is an "incidental" expense, and must be audited and paid as other claims against the general fund of the county. The Superintendent and the County Board of Education have the authority to print whatever may be necessary in carrying out the requirements of the law. The printing of circular letters of instruction to teachers by the Superintendent, the printing of questions for examinations and the printing of courses of study are incidental expenses. As such they must be audited and paid as other claims against the general fund are paid. (Attorney-General Hart.)

863. Section 1770 of the Political Code seems to contemplate that the Board of Education may have something more to do than to hold examinations for the granting of teachers' certificates semi-annually, for it provides that all incidental expenses incurred by the Board of Education shall be audited and paid as other claims against the general fund of the county. It seems to me that the publication of a circular letter of instructions to the teachers, by the Superintendent, and authorized by the Board of Education, would not fall outside the provisions of the school law. The bill for printing legitimate matter is an incidental expense and must be audited and paid as other claims against the general fund of the county. (Attorney-General Hart.)

864. There can be no doubt that the printing of questions for examination of either teachers or pupils is a necessary incidental expense, and must be audited and paid as other claims against the general fund of the county are audited and paid.

POSTAGE.

865. Postage stamps for the necessary correspondence relating to school matters should be purchased in the same way in which paper and other school supplies are bought.

866. The Superintendent has no right to draw money to pay for postage or expressage; he should pay his postage and expressage and render bills for same to the Auditor or the Board of Supervisors. He is entitled to an amount not exceeding $2 for each school district for this purpose; but this does not entitle him to draw from the treasury $2 for each district; he should draw from the treasury to reimburse himself for moneys paid out for postage and expressage to the extent of not exceeding $2 for each district.

867. The amendments made by the Legislature of 1891 provide that the Superintendents shall be allowed $2 for each district, for postage and expressage.

868. When Superintendents find it necessary to purchase postage stamps they can draw upon the County Auditor for sufficient money to pay for them, or they can purchase them out of their own moneys and draw upon the Auditor for enough to reimburse them. They have no right to draw upon the Auditor for one-half of the sum of two dollars for each district. They draw for enough to pay for such amount of postage as is needed, but the amount cannot exceed two dollars for each district. The amount of postage needed for each district may be much less than two dollars per annum; if so, only the amount needed can be expended. Superintendents are not at liberty to draw the two dollars per district and appropriate the surplus over what is needed to their own use as perquisites of office. The State Legislature appropriates $900 per annum for the postage required in the State Superintendent's office, but that officer is not allowed to draw the $900, but only such part of it as he may need to supply his office. Superintendents are not required to keep a separate post-

age account with each district; they should keep a postage account to show what amount they do draw from the aggregate of two dollars per district, and to show that they do not overdraw the aggregate. Some districts may require more postage than two dollars, others much less. The aggregate must not exceed the average of two dollars.

PROMOTION, OF PUPILS.

869. In Subdivision 2 of Section 1663 the words "or otherwise" give to County Boards of Education the power to promote pupils or to graduate them without either written or oral examination. I have always advocated the doctrine that the expressed judgment of the teacher is the best means for the promotion of children. The teacher who has made herself familiar with the requirements for promotion, and who has made herself familiar with the status of the individual pupils, can render a more correct judgment than can be predicated upon any single written or oral examination.

870. The County Board of Education determine the promotion and graduation of pupils, by written examination or *otherwise*. (See Section 1663, Subdivision 2, of the Political Code.)

PROPERTY, CONDEMNATION OF.

871. Trustees can, if they desire to do so, secure the condemnation of private property for school purposes. (See Section 17, Mills on Eminent Domain.—Attorney-General Hart.)

PUNISHMENT, CORPORAL.

872. There is in the School Law nothing to prohibit corporal punishment in the schools. Expulsion and suspension are not the only means of securing good order. Of course, corporal punishment should be resorted to only in extreme cases, and it should be administered with great discretion. The schools would fail of fulfilling their most important mission if the only way of meeting the cases of those boys who most need controlling and restraining was to turn them loose upon the streets, free from all control and restraint.

873. A teacher has a right to inflict reasonable corporal punishment upon disobedient or refractory pupils. Should

the rules of the Board of Education or of the Board of Trustees direct otherwise, the teacher should be governed by such rules.

874. It has always been held by the courts that teachers have a perfect right to administer reasonable corporal punishment. Of course, if there is a rule of the Board of Education or of the Board of Trustees to the effect that corporal punishment shall not be employed in any case, teachers should comply with such rule. The Trustees, by Section 1617 of the Political Code, Subdivision 1, have authority to prescribe and enforce rules not contrary to law. A rule abolishing corporal punishment would not be in contravention of our law; hence Trustees have a right to adopt such a rule, if they think proper to do so. I am of opinion that the adoption of such a rule would be unwise, for I think the time has not yet come when the ill-controlled children of ill-controlled parents can be governed by any means better than judicious corporal punishment.

875. Our statutes are silent as to the matter of corporal punishment, and Boards of Education or Boards of Trustees have the right to enact such rules relative thereto as they may deem proper. They may prohibit it altogether if they deem it proper to do so.

876. Trustees have the legal right to adopt a rule prohibiting all corporal punishment, if they deem such a rule a wise one. They certainly ought to prohibit the use of a riding whip or of a cowhide. The teacher's common sense ought to prevent him from employing either of those instruments.

PUPILS.

877. A teacher, or a Principal when there is more than one teacher, has a right to detain pupils for a reasonable time for misconduct or for disobeying the rules of the school.

878. A teacher has a right to detain pupils after the close of school for the purpose of correction or punishment. It is a general custom; but the detention, like other punishments, must be just and reasonable.

879. When pupils have been detained by teachers, a person who goes to the school and, in the presence of the teacher and the pupils detained, orders the pupils to go

home, commits an offense punishable by fine from ten to one hundred dollars.

880. To disobey the Rules and Regulations of the Public Schools of California, adopted by the State Board of Education, and to act in open defiance of the authority of the teacher, constitutes good ground for expulsion, and the pupil so acting should be expelled from the school.

881. A teacher has a right to detain a pupil after the end of the session of the day, as a punishment for violating the regulations, or for disobedience, or neglect of duty; *provided*, that children under eight years of age must not be kept in school longer than four hours per day.

882. Irregularity of attendance is cause for expulsion. "Every pupil is expected to attend school punctually and regularly." If, when the teacher attempts to enforce this regulation, the pupil openly and defiantly disobeys his order, such pupil is liable to expulsion.

883. The teacher should have the control of pupils who stay at the school at noon, and should supervise their actions and movements, and should not permit them to leave the school premises without a request from the parents.

884. If a pupil desires to study ahead of his grade, the teacher should exercise his judgment in permitting him to study advance lessons.

885. By Section 1684 of the Political Code all pupils must comply with the regulations, pursue the required course of study and submit to the authority of the teachers of the school. By subdivision 1 of Section 1521 of the same Code, the State Board of Education is empowered to adopt rules and regulations for the government of the schools. The rules and regulations so adopted *are required* to be enforced in all public schools. (Section 1696, subdivision 3.) By Section 2 of the Rules and Regulations adopted by the State Board, unless otherwise provided by special action of the Trustees, the daily session of every school shall commence at 9 o'clock A. M. If any pupil is not present at that hour such pupil must be marked tardy. By Section 11 of the same Rules and Regulations, teachers are authorized *to require excuses* from the parents or guardians, either in person or by written note, in all cases of absence or tardiness. This excuse does not relieve the teacher from

the duty of marking a pupil tardy who is not present at 9 o'clock; it simply relieves the pupil from the odium of offense. No matter what the cause may be a pupil is tardy who is not present at the time for opening the session of the school.

886. All pupils entering a school on or after the 1st day of July are to be regarded as *new pupils*, unless they have been entered in some other public school in the State on or after said 1st day of July. If such pupils have been entered or enrolled in some other school on or after the 1st day of July they are to be enrolled as pupils received by transfer when they enter some other school.

887. If pupils are promoted from one class or grade to another they are not to be enrolled as new pupils, but simply as pupils received to the higher class or grade by transfer. So if they are put down from one class or grade to another.

888. By subdivision 4, Section 1696 of the Political Code, teachers have the right, and it is their duty, to hold pupils to a strict accountability for disorderly conduct on the way to or from school.

889. Teachers in schools in which there are Principals have nothing to do with the promotion or graduation of pupils, except to recommend. The Principals are the responsible parties in these matters, and assistant teachers must follow their directions.

READING.

890. Reading being one of the regular branches upon which all teachers must pass an examination, it cannot be considered a special branch, such as is referred to in Section 1771 of the Political Code, subdivision 3; therefore it would not be proper to grant a special certificate to teach reading.

RECESS.

891. I have no hesitancy in deciding that, according to Section 6, page 87 of the School Law, teachers are required to remain upon the school grounds during the noon recess. This recess is a time when it is particularly necessary that the teacher should be present to supervise the conduct of the pupils. A teacher has no more right to be absent dur-

ing the noon recess than during any other recess. It would be somewhat difficult for a teacher to exercise a vigilant and watchful care over the conduct and habits of the pupils *during the time for relaxation and play*, if during such time said teacher is not present.

892. According to the law (see Section 1696, subdivision 4, of the Political Code, and Section 6 of the Rules and Regulations adopted by the State Board of Education, page 231 of the School Law), teachers are required to have charge of their pupils during the recesses as well as at other times. There is nothing unreasonable or wrong in requiring teachers to remain on the school grounds during the noon recesses. It is not possible for them to superintend the conduct of the school during recess unless they are present, and the law implies that they should be present.

## RECOGNITION OF INSTITUTIONS.

893. *Resolved*, That the State Board of Education in this State, in recognizing universities and colleges, as provided in Section 1775 of the Political Code, as amended March 23, 1893, shall be guided by the following rules:

1. All applications for recognition shall be made by the faculty of the institution soliciting recognition, and shall be accompanied by a copy of the course of study in the pedagogical department of said institution, and by a detailed statement of the amount of professional training required for graduation from said department.

2. In considering all applications the State Board shall carefully examine the merits of the course of study in the pedagogical department of the institution soliciting recognition, as compared with the course of study in the corresponding department in the University of California.

3. When any institution shall be recognized, notice of such recognition shall be sent to the Superintendent of Schools in every city and county in the State, and it is hereby made the duty of the Secretary to transmit such notice without delay.

*Resolved*, That the City and County Boards of Education, in accepting recommendations of applicants for high school certificates, under the provisions of Section 1775 of the Political Code, from universities and colleges recognized by the State Board of Education, under the provi-

sions of said section, must be governed by the following rules:

1. The recommendation must be issued by the faculty of the institution from which the applicant graduated, and must be signed by the President and Secretary of the faculty, and have the seal of the institution attached.

2. Such recommendation must clearly set forth the amount of professional training which the applicant has had in the institution by which he is recommended.

3. The amount of such professional training must in no case be less than that required by the University of the State of California, as specified in the register thereof.

4. It shall be the duty of the City and County Superintendents to provide and keep in their respective offices the latest edition of the register of the University of California, for the use of the members of their respective Boards.

5. No Board shall consider the application of any party who is not a graduate of the pedagogical department of an institution that has been recommended by the State Board of Education in this State.

6. No Board shall consider applications presented by parties who are not residents of the State of California.

RECORDS.

894. If the records of a school should be burned, the teacher should write them out again as soon as possible, and in as correct a manner as possible, while the matter is still fresh in the teacher's mind.

REPAIRS.

895. If repairs to the school building are *necessary*, under the third subdivision of Section 1543 of the Political Code, it is the duty of the Superintendent, upon the order of the Trustees, to draw his requisition on the Auditor. Under Section 1546, if there is sufficient money to the credit of the district, the County Superintendent can require the Trustees to repair the school building, if no more than fifty dollars is expended for that purpose.

896. The law designs securing *instruction for the children* during eight months, at least, in every year, when it is possible; consequently, no expenditures should be made, except for things indispensable, such as teachers' salaries,

school supplies, fuel, etc. This would forbid new buildings, additions, repairs, etc., unless it is clear that there is money on hand to maintain the school for eight months. This security being had, any residue would be available for such purposes as additions, repairs, and so forth. In case there is no such balance, resort must be had to voluntary contributions or local taxation.

897. The Superintendent can require the Trustees to spend fifty dollars for repairs on the school-house, or other school property of the district, if necessary.

898. The Trustees may spend any money for repairs that remains in the county fund after an eight months' school has been maintained.

REQUISITIONS.

899. Under the third subdivision of Section 1543 of the Political Code, it is the duty of the County Superintendent, upon the order of the Board of Trustees, to draw his warrant for all *necessary* expenses of the district. If the expenses are not necessary the Superintendent is not required by law to draw the warrant, and it would be improper to draw it. If this were otherwise, a County Superintendent would be an officer without any discretionary power, and the law prescribing the power of County Superintendents shows such a theory to be unfounded.

900. No requisition should be drawn by the Superintendent for an order in payment of a teacher's salary, unless there is money enough in the treasury to the credit of the district to pay the whole sum.

901. No requisition can be drawn in favor of *any teacher whatever* who does not hold a valid certificate in full force during the whole of the time he or she has taught.

902. The Superintendent of Schools would not be justified in drawing a requisition for the salary of a teacher who was teaching a first grade school and yet held only a second grade certificate.

903. The Superintendent does right when he refuses to draw a requisition for a teacher who employs and pays an assistant who does not hold a legal certificate. In the employment of such an assistant the spirit of the law is directly violated.

904. In no case, except as provided specially in the law (see Sections 1521, subdivision 12, 1545, 1546, 1548 and 1564), can Superintendents draw requisitions for the payment of any expenses of a school. When Trustees refuse to draw their orders, there is only one course to pursue, that is, apply to a proper court.

905. No warrant shall be drawn in favor of any teacher, unless the officer whose duty it is to draw the warrant is satisfied that the teacher has faithfully performed all the duties required by Section 1696 of the Political Code.

RESIDENCE.

906. Section 52 of the Political Code provides that the residence "is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose." There can be only one residence. A residence cannot be lost until another is gained. The residence of the father during life, and, after his death, the residence of the mother while she remains unmarried, is the residence of the unmarried child.

RULES AND REGULATIONS.

907. It is the duty of the County Superintendent and of the Trustees to see that teachers comply with the rules and regulations of the State Board of Education. Those rules and regulations are enacted by the State Board by authority of law, and when not in contravention of the law their observance is necessary and obligatory.

908. Any rule adopted by a Board of Trustees which requires a teacher to be present at 8 o'clock, when the school does not open until nine o'clock, is in contravention of Section 1 of the Rules and Regulations adopted by the State Board of Education. The rules and regulations adopted by the State Board of Education are adopted in accordance with the power conferred upon the said Board by the law, and are law for the schools.

909. The Trustees of the school districts are vested by law with the power of making and enforcing rules for the government of the schools under their charge; provided, such rules do not contravene the laws of the State. (Section 1617, subdivision 1.) They have power to manage and control the school property. (Section 1617, subdivi-

sion 2.) Principals shall be held responsible for the general management and discipline of their schools. (Rule 5, page 231 of the School Law.) Principals are required to exercise a watchful care over the pupils at recesses. (Rule 6, page 231.) They shall prescribe rules for the use of the yards, etc., such as may secure neatness, etc. They are required to prevent pupils from remaining in rooms that are provided with improved furniture, except in the presence of a teacher or monitor, etc. (Rule 13, page 232.) They must require pupils to pass out of schoolrooms. (Rule 4, page 230.) In fair weather the children should be required to be out in the open air at recesses; and I think that in these details of management the Trustees should not interfere, except to sustain the authority of the teachers. It is not for the best interests of the schools or of the pupils to have the Trustees interfering with the minor detail of management. The more general the rules of the Board of Trustees the better, and the more they make the Principals and teachers responsible for the management of the schools the better. The Principals and teachers are rightly supposed to know more about these matters of management, than it is possible for Trustees to know. Of course, whatever rules the Board of Trustees may adopt, the teachers must observe, unless such rules are in conflict with the law, or with the rules and regulations adopted by the State or County Boards.

SALARIES.

910. Article XI, Section 9, of the Constitution, provides that the salary of a county officer cannot be increased during his term of office, and those officers now holding cannot receive the benefit of any such increase, should the Legislature see fit to provide it. (Attorney-General Marshall, February, 1883.)

911. By Section 1693 a school month is composed of twenty school days, or four weeks of five school days each. If a teacher has taught twenty school days, he is entitled to be paid a month's salary.

912. Whenever the law or Trustees suspend the school, the teacher has the right to his pay the same as if no holiday or suspension had occurred.

913. If a school has been temporarily suspended upon the suggestion of the teacher, in consequence of bad weather

and prevailing sickness, and in the suggestion the teacher had led the Board to understand that he was not to be paid during the time of suspension, he would not be entitled to pay. Had the Board suspended the school on their own motion, the teacher would be entitled to pay.

914. If there was sufficient money in the school fund *for the year during which he taught*, to pay the teacher, the school funds are subject to the payment at any time within the period prescribed in the Statute of Limitations. If there was not sufficient money in the fund to pay him for the year in which he taught, the district is not liable to him at all.

915. A teacher on several occasions had been at school and ready to teach the children; but the rain kept the children away. The teacher is entitled to pay for such days.

916. Whenever teachers are employed for a fixed period of time, and are ever ready and willing to teach throughout the whole of the time, notwithstanding the fact that the school was closed during a part of the time for vacation, because of fire or epidemic, or for any other reason over which the teacher had no control, they must be paid as if they had taught the whole of the time. If teachers agree to any special arrangement, they are bound by all the terms to be found in the contract.

917. A teacher being present and ready for duty, is entitled to his salary during the time of suspension of school, when that suspension is made in term time by law, or by act of the Trustees.

918. When school is suspended by the Trustees during the time for which a teacher has been engaged, the teacher suffers no loss of salary, provided he was present and ready to perform his part of the contract. Should the suspension be on account of prevailing epidemic, *the district* shall suffer no loss of apportionment from the State or county funds.

919. It is illegal and a violation of the law for the Principal of a school to draw all of the money and pay the primary teacher what he pleases and when he chooses. If he refuses to turn over to her her money upon demand, but holds it and obtains interest on it, he is liable to pros-

ecution for the crime of embezzlement. No Principal has the right to employ the primary teacher, and Trustees have not the right to delegate to him that power. The warrant for a teacher's salary must be drawn in the teacher's name. To draw a warrant in favor of the Principal for all salaries is not only in violation of law, but it is conducive to fraud.

920. A teacher is entitled to pay for the full length of time for which he is employed; and although Trustees prevent him by force from teaching during the whole of that time, he is as fully entitled to pay for the whole period as if he had taught during the whole period; *provided* he was at all times ready and willing to teach.

921. If a teacher is prevented from keeping school open by the intervention of some superhuman cause, he is entitled to pay for those days during which it was absolutely impossible, for this reason, to keep school open. If the Trustees order him to close school, he is entitled to pay. These are the only cases in which he is entitled to pay.

922. The Trustees of a certain district employed a teacher for five months, representing to her that there were sufficient funds to pay her for that time. It turned out afterwards that the funds lasted but three months; the question is asked, what redress had the teacher? She has none. The Trustees are not personally liable in such a case, and the district is, by law, expressly relieved from liability.

923. There is no way in which a teacher can be paid from the public school funds, unless such teacher holds a valid certificate in full force during the entire time taught.

924. A teacher cannot draw salary unless she holds a valid certificate of the county in which she is teaching. In case she asks for a temporary certificate upon a valid one of another county, the Board of Education can order the County Superintendent to issue it or not, as they please

925. In yours of the 14th instant you inquire: "In case a teacher contracts to teach a school for eight months, and after teaching two months the school is closed by the Trustees for one month, on account of an epidemic, is the teacher, who has been in readiness to go on with the work all the time, entitled to, and can she collect legally her salary for that month during which the school was sus-

pended." A contract cannot be limited in its obligations by some subsequent event which transpires after the making of it—such as an epidemic—if the teacher has complied with the provisions of Sections 1700 and 1701 of the Political Code, and the district has received its apportionment of school moneys. (G. A. Johnson, Attorney-General, February, 1888.)

926. An epidemic is a public calamity, the results of which should not be borne entirely by the teachers. When a school was closed seven weeks by request of the Board of Health, the teachers should receive their pay.

927. According to the opinion of the Attorney-General, if the Trustees of a district should order the teacher to close school indefinitely on account of sickness among the pupils, the teacher is legally entitled to salary for the time the school remains closed.

928. In case of a rainy day, when neither teacher nor pupils attend school, the teacher, not being on duty, ought not to receive pay.

929. If the Trustees dismiss the school on account of rain, the teacher is entitled to pay. A teacher has no authority to dismiss a school without consent of the Trustees; but if the school is so dismissed the teacher is not entitled to pay.

930. If Trustees are obliged to close school on account of stormy weather, the teachers are entitled to their salary, provided they were at all times ready for service. Neither teacher nor Trustees were responsible for the storm. If such cause prevented the Trustees from maintaining a six months' school, it would not lose its State apportionment. Neither should teachers lose their money. The chief loss falls upon the pupils, who lose their instruction, but this is unavoidable.

931. It is intended by Section 1687 of the Political Code to allow the same salary, in cities, to teachers of the beginners' class as that paid to teachers of the highest grade, next to the high school.

932. The Trustees have a right to close school on account of bad weather; but they must pay the teacher for the full time contracted for.

933. When a school is closed by the Trustees in conse-

quence of rainy weather, the teacher is entitled to pay for the time; but, if the teacher was not present on a rainy day and the school had not been closed by order of the Trustees, the teacher is not entitled to pay for such day.

934. Principals and teachers are entitled to pay of salary during vacations ordered by the Trustees without their consent, unless the contrary has been agreed to in the contract.

935. Neither a Board of Education nor a Board of Trustees can legally pay any salary to any teacher who does not hold a legal certificate corresponding in grade with the grade of the school; nor can a City or County Superintendent grant a requisition for salary to such a teacher without violating the law.

936. A teacher under contract to teach a school for a certain number of months, whether the contract is oral or written, is entitled to her salary during the time in which the school is closed in consequence of the school buildings having been destroyed by fire. The teacher should not be made to bear the loss occasioned by any calamity.

937. The law does not allow teachers any salary for teaching upon a legal holiday. Teachers ought not teach on a legal holiday; Trustees have no right to require them to teach upon these days, nor to make up for legal holidays by teaching additional days.

938. There is nothing in the law governing the schools of this State which authorizes the payment of salary to any member, or to any clerk, of a Board of Trustees.

939. There is nothing in the law that authorizes the payment of salary to any teacher during the time such teacher may be absent from his school, no matter what the cause of absence may be.

940. The Trustees, in employing teachers, must fix their salaries. To employ a teacher, agreeing to give him for his services all the money that may be apportioned to the district during the year, does not fix his salary in such manner as the law implies.

SATURDAYS.

941. A teacher has no right to take the responsibility of teaching on Saturday. If the Trustees see fit to make any

such arrangement, they are the only parties possessing such power.

SCHOOL-HOUSES.

942. Public school-houses are built for the purposes of public education alone, that is, no other object was had in view in their erection; and they are under the exclusive control and management of the Trustees, and of those acting under the Trustees. In the case which called forth a previous decision, a certain band had determined, contrary to the wishes of the Trustees, to give a ball in a school-house. The Trustees thought that the building and its furniture would be injured, and forbade the ball. The County Superintendent decided that the Trustees had power to forbid the ball, and appealed to this office to know whether he was right. Undoubtedly he was right:

943. In reference to the holding of divine worship in a public building, there can be no doubt of the power of the Trustees to forbid it, if in their judgment it is wise to do so. And if they should permit worship, and it should result in teaching partisan or denominational doctrines in the school, then, upon satisfactory evidence of the fact, it would become the duty of the Superintendent of Public Instruction and of the School Superintendent to withhold both State and county apportionments. Should the Trustees of any school choose to allow the divine worship to take place in a school-house, under such conditions as they may prescribe, this office is not prepared to say that they might not have the power; provided it did not result in any harm or inconvenience to the schools. But certainly no one has a right to demand it of them. It is a matter to be decided by the sound discretion of the Trustees.

944. Trustees have power to prohibit the use of school-houses for any and all purposes save the purposes of the schools. Should they, in their discretion, at any time, permit the school-houses to be used for any other purpose, they must see to it that no damage to the property, and no damage, delay, or inconvenience results to the schools.

945. If the Trustees take the responsibility of allowing the school-house to be used for any purpose besides those of the schools, they must see that it results in no *loss*, *delay*, *damage* or *inconvenience* to the school.

946. The school-house belongs to the district, and it matters not that a portion of the funds for its erection came from private sources. The Trustees ought to get a deed for the site; and if a deed cannot be had from the owner of the land, another site ought to be bought and the building moved on it.

947. When a school-house has been built by private funds and turned over to the school district to be used as a public school-house, it becomes public property, and stands in all respects as if it had been built by the public money. It is henceforth in charge of the Trustees, and under their control. No one can demand its use for any purpose other than that of the public school. If, in the judgment of the Trustees, and in the exercise of their discretion, they think that it would be well to allow it to be used for divine service, or for other purposes, it should be with the restriction that no damage should come to the property, and that no delay, or injury, or inconvenience should come to the school.

948. The Trustees can prohibit church services from being held in the school-houses, and they alone have power to permit the use of the school-houses for any purpose save that of schools. It is not the right of any person to demand the use of the school-house for any purpose other than school; and yet it has grown into a custom all over the country, in sparsely settled neighborhoods where there are not public buildings for divine worship, for the Trustees of schools to allow the use of the school-houses for that purpose. This they do in their own discretion; but they are to see to it that no damage or loss happens to the property, and that no harm, delay or inconvenience comes to the school, and that no sectarian doctrines are taught in the schools, as a consequence of this indulgence.

949. The school-house was built for the purposes of the public schools of the district, and no one has a right to demand its use for any other purpose. But as the Trustees are the legal custodians of it, I am not prepared to say that it would be wrong for them to prevent its use for another purpose occasionally *under proper conditions;* and provided that such use did not in any way injure or damage the property, nor cause delay, inconvenience or harm to the school. After such use the building should be put

in clean and orderly condition, and be entirely fit for the school and acceptable to the teacher. Of course, there should be no consequences of a demoralizing kind, and if such consequences are inevitable, the Trustees have no right to allow the use of the building.

950. There is nothing in the law which forbids the Trustees renting the school-house.

951. The school-house should be located by a vote of the district, and when once located it cannot be legally changed without a like vote. The proper place for the school furniture and school apparatus is in the school-house; therefore the school furniture and school apparatus should not be moved from one end of the district to the other without a vote of the people.

952. Trustees have entire control of the school property, and they may use their discretion in the matter of allowing it to be used for religious purposes.

953. A party teaching in a certain district, taught also a Sunday school in the school-house, by permission of the Trustees. The Superintendent intimated to the teacher that she was liable to lose her certificate for so doing. Held, that Sunday school instruction does not come under the head of immoral or unprofessional conduct, or evident unfitness for teaching, and that the matter of using the school building for such a purpose rests entirely with the Trustees.

954. Trustees have a general control of the school property of the district; and they must decide for themselves what is right in the matter of using the school-house for other than school purposes, unless they have received instructions from the qualified electors of the district according to part first of subdivision twentieth of Section 1617 of the Political Code. The use of the school-house for meetings that are patriotic or literary and entirely decorous is permissible.

955. Section 1617 of the Political Code, subdivision 2, gives the Trustees control and management of the school property, and they are not obliged to consult the teacher as to what use may be made of the school building. It would, however, be naturally expected that the teacher would be notified, if the school-room had been granted for

other than school purposes. The law gives the electors of a district the right to instruct the Trustees, at any regularly called meeting, in regard to the use of the school-house for other than school purposes. (See Section 1617 of the Political Code, subdivision twentieth.)

956. It is in contravention of what is right or proper for Trustees to permit the school-house to be used as a dance-hall. Public school-houses are built and intended to be used for public school purposes; dancing is not one of these purposes. It is true the Trustees have charge of the building, and, unless instructed otherwise by the electors of the district, they may permit it to be used; but they are responsible for the use of the property, and should see that it is not used for any improper or objectionable purpose, and that no harm results in any way from any meeting of any kind held therein. The people have the right to instruct the Trustees to the effect that they shall not let the school building for any purpose whatever. Certainly the Trustees must know that the school building cannot be used for dancing purposes, having the seats and desks taken out, etc., without being injured. Besides, the use of the building for such a purpose is well calculated to do great injury to the school and to the better sentiment of the patrons of the school. Any citizen has a right to object to the use of the school building for any purpose other than that for which it has been erected; and should any damage accrue from letting the building for extraneous purposes, any citizen has the right to institute an action against the Trustees for such injury.

957. The location of school buildings must be made by a majority vote of the electors voting at the meeting called for that purpose under Section 1617 of the Political Code, subdivision 20.

958. Trustees are not at liberty to let school-houses for dancing purposes. Especially is this the case when it is necessary to remove the desks and other furniture.

959. The location of school-houses can be changed only as provided in Section 1617, subdivision 20, of the Political Code. If the electors of the district, at a meeting held for that purpose, vote to change, the Trustees must comply with the instruction given by such meeting.

960. When objection is made by any elector of the district, the Trustees are not at liberty to let the school-house for other than school purposes, unless instructed so to do by a meeting of the electors as provided in Section 1617, subdivision 20, of the Political Code.

961. It is the duty of Trustees, when directed by vote of their districts to build school-houses, to advertise for plans, specifications and bids in accordance with the Act of April, 1872. It is the manifest intent of the law that, except in incorporated cities, such plans should be submitted to the County Superintendent for his approval.

SCHOOL LAWS.

962. The State Superintendent is not authorized to furnish copies of the school law for general distribution, but for the *use of school officers and school libraries.*

963. Under the law the Superintendent of Public Instruction is not at liberty to furnish copies of the school law promiscuously; he is required to furnish copies to school officers and school libraries. The copies thus furnished are not the individual property of those parties, but theirs simply in trust for themselves and their successors. The copies furnished should be taken care of and handed over, as other school property is, to their successors.

964. Copies of the school law, whether bound or in pamphlet form, are the property of the State and must be transferred by teachers, Trustees and Superintendents to their successors. It is the duty of the Trustees to see that a copy of the school law is kept in the library of the school. It is their duty, also, to see that all school property is carefully conserved.

SCHOOLS, PRIVATE.

965. Private schools can have no portion of the public moneys awarded to them. Section 8 of Article IX of the Constitution of the State forbids it.

966. The fact that part of the time expended in teaching by the applicant for a diploma was passed in a private school does not matter, if the recommending Board are satisfied that he was sufficiently successful in teaching.

967. Time spent in teaching in a private school has

always been counted as a part of the school experience required for educational or life diplomas.

SCHOOLS, PUBLIC.

968. The Board of Trustees of a district have not the power to discontinue the primary and continue the grammar school during the remainder of the term. Boards of Trustees and City Boards of Education must, according to Section 1619 of the Political Code, maintain all the schools established by them for an equal length of time during the year, and as far as possible with equal rights and privileges.

969. Section 1662 says that every school must be open for the admission of all children between six and twenty-one years of age *residing in the district*, and others may be admitted as a privilege.

970. The fact of the teacher being paid by the people of the district, whether by bonds, by district tax, or by subscription, could not convert the public district school into a private school.

971. Children cannot be excluded from the public schools, unless they are over twenty-one years of age. (See Section 1662 of the Political Code.)

972. Trustees cannot legally open the school and hold the sessions thereof in any other place than that which has been determined upon—that is, in the school-house. They have no right to fit up a room in any other place without a vote of the electors of the district, in accordance with Section 1617 of the Political Code, subdivision 20. Should they do so they will not be justified in paying the salary of the teacher employed by them out of the school funds, nor would the Superintendent be justified in drawing his requisition on such order of the Board of Trustees.

SECTARIANISM.

973. There is nothing denominational in the Lord's Prayer; but it would be better for teachers to consult with the Trustees and the patrons of the school, and, if they found that objection existed even to the use of the Lord's Prayer, they should abstain from its use.

974. The words and the spirit of the law are utterly opposed to making the public schools the means of dissem-

inating partisan or sectarian doctrines. The school-houses are built for the public schools, and no one has a right to demand them for any other purpose. The Trustees are the local custodians of these houses, and if they take the responsibility of permitting them to be used for any purposes save those of the schools, they must see to it that the schools take no damage of any kind therefrom, and that sectarian and partisan doctrines be not taught in the schools directly or indirectly.

SESSION, DAY'S, OF SCHOOL.

975. The length of the day's session may be determined by the Trustees. A teacher may dispense with the afternoon recess, if the Board of Trustees consent.

976. A City Superintendent has no power to enforce a rule requiring pupils under eight years of age to be kept in school more than four hours per day. Section 1673 of the Political Code and Section 3 of the Rules and Regulations of the State Board of Education forbid such action.

977. A teacher cannot dismiss a school every Friday at 3 P. M. without the consent of the Trustees. They have power to regulate such matters.

978. Section 2 of the Rules and Regulations of the Public Schools, adopted by the State Board of Education in accord with the law, empower Boards of Trustees to fix the hour for the closing of the daily session of the school, as well as the hour for the opening of the daily session. There is no doubt of their authority to close the daily session at three o'clock in the afternoon, if they deem it best to do so.

SITES, SCHOOL.

979. If the site occupied by a school-house was donated upon the conditions that it must be used for school purposes, the title would revert to the grantor in case of its abandonment as a school site.

980. The Trustees cannot purchase a school site from a man whose wife is one of the Trustees, if she is pecuniarily interested therein.

981. Trustees must submit to a meeting in location of a school-house, after bonds have been voted with which to build, purchase site, etc. The calling of the meeting is

mandatory, and not optional, and the Trustees can act only upon the instructions of such a meeting.

982. If a site selected by the qualified electors of a district for a school house is afterwards withdrawn, another meeting should be called, at which another site should be selected.

983. Trustees have no power to condemn property upon which to erect a school building. The action for condemnation must be had in a court of law.

STATE TEXT-BOOKS.

984. County Superintendents, under the law, have no right to supply private schools with State text-books. Such schools should supply themselves, if they wish these books, from retail dealers.

985. A Superintendent can charge for State books only the cost price of the books at Sacramento, with postage, or freight, or expressage added. He cannot receive pay for distributing books.

986. The County Superintendent cannot designate any particular bookseller as the *sole vendor* of State books, and authorize him to add any per cent. to the price of each book. Any retail dealer is authorized to handle the books.

987. The affidavit filed by a dealer allows him to sell books to any pupils or dealers in the State, but not to other dealers.

988. When no dealer will keep a supply of State text-books on hand, the Superintendent must do so; and it is the duty of the Board of Supervisors to furnish a revolving fund for that purpose.

989. If a district refuses to use the State series of text-books, according to Section 1875 of the Political Code, it loses twenty-five per cent. of the apportionment of the State School Fund to which it may be entitled.

990. Local book dealers are not at liberty to sell books of the State series at prices higher than those fixed by the State Board of Education. If such dealers do this they do it in violation of their affidavit, and are subject to being proceeded against for perjury.

991. The State Board of Education have never been authorized to publish a text-book on entomology; nor is it

their intention to ask for such authorization. True, the Legislature, at its session in 1889, made an appropriation of $15,000 to purchase the plates of Prof. Cook's work on this subject; but nothing further than the purchasing of these plates has ever been done, nor is anything likely to be done.

992. The only parties who can order State text-books are Superintendents of Schools, Principals of the State Normal Schools, Clerks of Boards of Trustees, and retail dealers.

993. No parties are authorized to purchase State text-books from the State Printer, except Superintendents of Schools, Principals of the State Normal Schools, Clerks of Boards of Trustees, or retail dealers. If private parties desire to procure these books they can get them from the dealers without an order, or from the State Printer upon presenting a requisition to the State Superintendent signed by the Clerk of the district.

994. County Superintendents are allowed by Act of March 15, 1887, to order State text-books for the use of teachers, parents and pupils in their respective counties. This should not be construed to mean that they can order the books for dealers. Should dealers wish to order books, they should file the required affidavit, as specified in Section 6 of said Act. These affidavits must be indorsed by the County Superintendents and be filed in the office of the State Superintendent.

995. I know of no law that will prevent a dealer from selling the State series of books at a *less* price than that fixed by the State Board of Education. By the Act of March 15th, 1887, dealers are prohibited from selling any book for a price *exceeding* that fixed by the State Board. If a dealer does sell for a higher price, he can be proceeded against for violation of his oath. If any case of this kind is presented to this office it will be our duty to attend to the matter.

STUDIES.

996. Trustees and teachers are not authorized to introduce into their schools any studies not authorized by the County Board of Education for the grades therein represented.

SUPERINTENDENT OF SCHOOLS.

997. Section 1549 of the Political Code authorizes the County Superintendent to appoint a deputy; but such deputy cannot be paid out of the school funds.

998. The opinion has been expressed by this office, by ex-Attorney-General Hart, when in office, and by Attorney-General Marshall, now in office, that the County Superintendent of Schools is entitled to compensation for his services as a member of the Board of Education in his county, in addition to his salary as Superintendent.

999. The general supervision of all the schools—county and city—was, and is, in the County Superintendent, and the city school authorities must make the proper reports to him.

1000. The Political Code, in Section 1770, says that "the Board of Supervisors shall allow to the members of the Board of Education a reasonable compensation for their services." This language includes *all of the members* of the Board, and the County Superintendent is one of the members. It cannot be supposed that the law was intended to discriminate against him. His labors on the Board are not as Superintendent, but as a member. If a special charter prescribes a salary for the Superintendent which shall be in full for all services, it undoubtedly means *all services as Superintendent.* If, as often happens, he teaches a school also, none would claim that under the charter he should not be paid for his services as a teacher. The opinions of the Attorney-General coincide with these views.

1001. The law does not require a Superintendent to visit any school not in his own county. In case of joint districts he should visit the schools when they lie within his own county.

1002. A County Superintendent has no legal right to retain a fee for cashing a school order. Section 923 of the Political Code and Section 71 of the Penal Code forbid it.

1003. There is no law which gives the Superintendent the right to close a school.

1004. The law does not specify the qualifications of a Superintendent of Schools beyond the point that he must be a citizen. It is not necessary that he should hold either

a State diploma or a county certificate in order that he may qualify and legally hold the office.

1005. Superintendents under the law are entitled only to their *actual* and necessary expenses.

1006. In reply to a question submitted by one of the Superintendents, Attorney-General Hart has given the following opinion:—

"Section 1770 of the Political Code, as amended in 1889, allowing the Secretary of the Board of Education a per diem, was approved March 15, 1889. (Statutes of 1889, page 172.) The County Government Act was approved March 16, 1889. (Statutes of 1889, page 252.)

"Section 211 of the County Government Act, approved March 16, 1889, and Section 216 of the County Government Act, approved March 31, 1891, provide: 'The salaries and fees provided in this Act shall be in full compensation for all services of every kind and description rendered by the officers herein named, either as officers or *ex-officio* officers,' etc. The County Government Act, having been passed and approved subsequent to the other Act, must govern.

"All Acts inconsistent with former Acts repeal them by implication. (Pierpont v. Crouch, 10 Cal., 315; State v. Conkling, 19 Cal., 512; City and County of Sacramento v. Bird, 15 Cal., 294.)

"In Billings v. Harvey, 6 Cal., 381, it is held: 'If a statute or section of a statute is re-enacted, it is totally inconsistent with the idea that the old statute or section remains in force or has vitality for any purpose.'

"'The last expression of the Legislature must govern.' (People v. Dobbins, 75 Cal., 257.)

"Section 24, Article IV of the Constitution provides: 'An Act revised or section amended shall be re-enacted,' and has the force of a new law. (Donlan v. Jewett, decided April 1, 1891.)

"I am of the opinion that a County Superintendent is not entitled to a per diem as *ex-officio* Secretary of the Board of Education.

"At the last session of the Legislature a new section was added to the Political Code, as follows: '4334. In all cases in which any provision of law authorizes an officer who receives a salary to perform an official act, and he

performs such act, all fees chargeable for the performance of such act shall be collected by him and paid over to the treasury or other officer authorized by law to receive the same.'

"This seems to indicate that the per diem received by the Superintendent of Schools should be paid into the county treasury. In either event he is not entitled to a per diem for his personal use."

1007. County Superintendents have the right, under the law, to appoint a deputy, and, under the law, a deputy can discharge any duty devolving upon the principal. The principal, of course, is responsible for all acts of his deputy. There is nothing to hinder a deputy from serving upon a County Board of Education, whether it be in the case of examinations for certificates or otherwise. The deputy should act as deputy, and in so doing he does whatever he does in the name of his principal. The Superintendent cannot authorize any member of the Board to sign his name. The deputy can sign the name of his principal by adding his own name as deputy.

1008. In June, 1887, Attorney-General Johnson rendered decisions as follows:—

"The Deputy Superintendent of Public Schools of the county may vote at a meeting of the Board of Education, in the absence of the Superintendent.

"Section 865 of the Political Code says: 'In all cases not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of the principal.' The duties of the Superintendent are closely set forth in the law."

1009. The County Superintendent must be governed by the rules of the County Board in so far as said rules are not in contravention of law. Any certificate issued in violation of said rules is illegal, null and void; and if the Superintendent issues a requisition in payment of the salary of the holder of such certificate, he violates the law.

1010. The Municipal Corporation Act makes no provision for the appointment of a School Superintendent in cities of the fifth class. Section 797 of said Act provides for the election of a Secretary of the Board of Education in such cities; and Section 804 thereof specifies the duties of the Secretary. These duties are those that appertain

to the position of Superintendent. The Board of Education cannot, therefore, employ a Superintendent of Schools in cities of the fifth class either by written or oral contract, the Secretary of the Board being practically Superintendent. This Secretary is also a member of the Board of Education.

1011. Cities of the fifth class cannot have a City Superintendent of Schools. The Secretary of the Board of Education in such cities performs the duties of Superintendent. This Secretary must be a member of the Board of Education. (See Section 804 of the Municipal Corporation Act, Statutes of 1883.)

1012. A city of the fifth class cannot have a City Superintendent of Schools. The duties of Superintendent in such cities are to be performed by the Secretary of the Board of Education, who is a member of the Board. (See Sections 797 and 804 of the Municipal Incorporation Act.)

SUPPLIES.

1013. It is not proper for a teacher to furnish supplies and pay for them out of his own means when the Clerk of the Board of Trustees fails to provide them; nor would it be proper for the Board of Trustees to draw an order for a requisition to pay for such supplies. Such action would establish a dangerous precedent.

1014. Apparatus may be paid for out of county fund after an eight months' school has been maintained. Dictionaries may be paid for out of county fund after an eight months' school has been maintained. Water for use in school buildings may be paid for at any time out of the county fund, it being a necessary supply for the schools.

TABLETS, WRITING.

1015. The county fund may be used for the purchase of writing tablets for children whose parents are unable to purchase them.

TAX, SCHOOL.

1016. The vote must be cast for the amount mentioned in the notice of an election for a school tax. It would be illegal if a vote were cast for a sum less than the amount named in the notice.

1017. In case of a tie vote on the question of raising a tax for improvements, the tax is defeated.

1018. According to Section 1830 of the Political Code, the calling of an election for the purpose of voting as to the levy of a special tax for school purposes, is a matter of expediency to be determined by the judgment of the Trustees of the district. There are no provisions of law by which the Trustees can be compelled to call such election.

1019. There is no provision in the general school law which authorizes any Board of Trustees to raise money by taxation without a vote of the people. Sections 1 and 2 of the Act approved February 14th, 1891, evidently have reference to some special provisions in the charter of cities. The only plans for raising money by taxation are those relating to the district taxes and bonds.

TEACHERS.

1020. The law does not compel Trustees to employ more teachers than are necessary to do well the work of the district, no matter for how many teachers money is apportioned. The word "teachers," as used in Section 1858, is merely for convenience, and means simply "seventy census children."

1021. A teacher has no legal claim upon either the Trustees as such, or upon the district for salary for the excess of time taught by such teacher beyond that for which the public money to the credit of the district will pay. (See Section 1623 of the Political Code.)

1022. The seventh subdivision of Section 1617 of the Political Code gives the exclusive power of employing teachers to the Board of Trustees of the district; and, of course, the will of the majority is the will of the Board.

1023. The Trustees have power to employ as many teachers as they choose, and as they are able to employ. It matters not how many teachers are assigned to the district in apportioning the State and county funds; but no more money for *these* funds will be received than goes by law to the number of teachers assigned to the district. If the people choose to raise more money by local tax, the law points out how it may be done. (Section 1830.)

1024. A district, by reason of a large census roll, is entitled to *four* teachers. The Trustees will, however, appoint but three. Is there any way for the Superintendent

to compel them to employ the number of teachers his judgment demands that they should have? The spirit of the law is that four teachers should be employed; and it is one of the wisest provisions of the law, for no teacher can teach over seventy children to the benefit of the scholars. But there is no method provided in the law by which the Superintendent can compel the Trustees in this respect to obey the law, if they are disposed willfully to violate its intention and spirit. There is no statute authorizing the Superintendent to interfere; and the law is that the powers and duties of a Superintendent of Schools are derived entirely from statute. He can exercise only such powers as are *especially granted*, or are incidentally necessary to carry the same into effect. (Ratcliff v. Faris, 6 Neb., 539, 544; Beers v. Board of Education, 72 Ill., 508.)

1025. The Trustees, and the Trustees alone, have the authority to employ a teacher. A teacher has no right to employ an assistant. The Trustees must employ *all* teachers. If a teacher becomes sick, he cannot employ another teacher to take his place. The Trustees must supply that other teacher; and that other teacher must be paid what the *Trustees* have agreed to pay him, not what others have agreed to pay.

1026. It is the number of census children enrolled that determines the number of teachers to which a district is entitled. The employment of the full number of teachers to which a district is entitled, or a less number, is left entirely to the discretion of the Trustees. There might be 500 children in a district, and only 300 of them attending the public schools. It would not be fair to oblige them to employ seven teachers when that number was not absolutely needed.

1027. There is nothing in the law to prevent the wife of a Trustee from being employed as a teacher in the district in which he is a Trustee, providing her qualifications are such as are required by law and by the County Board. A wife's earnings are her own, if she so wills, as they cannot be attached for the husband's debts. Hence the husband is not interested in her contract to teach.

1028. A teacher elected without notice having been given to all the Trustees of the meeting called for that purpose, is not legally elected. If the teacher does not

fulfill the law as laid down in Section 1696, subdivision first and second, the Superintendent is not only justified in withholding the warrant for her salary, but it is manifestly his duty to do so.

1029. Without doubt a teacher has a right to search a pupil's desk if he has suspicion of anything improper, and it is his duty to do so if he has any such suspicion. The law makes it obligatory upon teachers to teach morals and manners in all things. Pictures or letters of a bad tendency should be deemed contraband, and be confiscated. The desk does not belong to the pupil; he is allowed only the use of it.

1030. In a town in which only two teachers are employed the Trustees are not required to engage a teacher of two years' experience for the primary department.

1031. According to the law, teachers must be elected at a regular meeting of the Board, notice of which must be sent to *each* member.

1032. A teacher, whose work is more than he can well attend to, has no authority to employ an assistant who has no certificate, even though he does so out of his own means. Doing this would render his district liable to forfeiture of apportionment. Section 1860 of the Political Code is imperative on this point.

1033. A County Superintendent or a Board of Education have no authority for granting a teacher the privilege of absenting himself from an institute for the purpose of visiting schools in another county.

1034. If there is any question as to a teacher's privilege to leave the school premises at the noon recess, he should be guided by the instructions of the Board of Trustees.

1035. Teachers must confine their instruction to the course of instruction prescribed for the schools of the county or city. They are not at liberty to connect normal school work with that of schools of other grades.

1036. When a teacher is employed to teach a school, that teacher is under the control of the Trustees, and the school should be opened in the school-house, not in a private house.

1037. It is certainly very inadvisable for a teacher who has several grades in her school to allow older pupils to

teach the younger ones, and in my opinion it is contrary to law, for teachers who do not hold certificates of qualification have no right to teach in the public schools.

1038. It is entirely discretionary with the Trustees of a district to employ the entire number of teachers to which the district is entitled according to the number of census children, or to employ any less number. The needs of the school should determine the number of teachers to be employed. It may happen, and often does happen, that a district by census would be entitled to draw money for four or five teachers, when from attendance not over two teachers are needed. This question has been decided several times by the Attorney-General in accord with the opinion above expressed. The census forms no factor in determining the number of teachers to be employed.

1039. The Board of Education or Board of Trustees of any district has the right to require the teacher to be present at the school at whatever time in the morning they may deem proper and necessary. The time ought to be a reasonable one. I think the rule of the State Board of Education, Section 1, page 230 of the School Law, is a very reasonable rule and should be observed.

1040. Any teacher employed by a Board of Trustees for a specified time who leaves the school before the expiration of such time without the written consent of the Trustees, shall be deemed guilty of unprofessional conduct, and the Board of Education are authorized to suspend the certificate of such teacher for the period of one year.

1041. There is nothing in the law that will prevent a teacher from giving instruction to pupils outside of school hours, except that when the teacher is a member of a Board of Education he is not at liberty to specially train pupils for teachers' examinations. If the Trustees desire to permit a teacher to use the school building for the purpose of giving instruction to pupils outside of the regular school hours, they are at liberty to do so.

## TEACHERS, ELECTION OF.

1042. If Trustees hold a meeting immediately after the election of Trustees and elect teachers at such meeting, or if they elect teachers at any time during the month of June for the succeeding school year, such election will be

null and void. Trustees can enter into no contract with teachers which extends beyond the 30th day of June in the year in which such contract is made. Teachers for next year cannot be legally elected prior to the 1st day of July. A newly elected Trustee cannot enter upon the discharge of his duties prior to the 1st day of July following his election; hence the proceedings of any meeting in which such newly elected Trustee took a part would be null and void. In either case the teachers cannot hold the Trustees liable.

1043. Teachers can be employed only at a meeting of the Board of Trustees. Trustees, according to Section 1617, Subdivision 1, can transact business only at regular or special meetings. Any business transacted in violation of this provision is illegal and void.

1044. The election of a teacher, unless made at a regular meeting, or at a special meeting of which every member has had notice, is illegal and void. Subdivision 1 of Section 1617 of the Political Code is perfectly plain.

TEACHERS, SPECIAL.

1045. A Board of Trustees may employ a teacher of Spanish, over and above the studies prescribed by law; but the County Board of Education must first authorize the teaching of Spanish, and they alone can grant the *special* certificate. This must be had.

1046. Teachers of special branches must hold certificates. A district that employs an uncertificated teacher forfeits its apportionment.

TEACHERS, SUBSTITUTE.

1047. No teacher is entitled to draw money for teaching a grammar grade, unless she holds a first or grammar grade certificate. Subdivision 15 of Section 1543, says that no teacher holding a certificate *below* the grade of the school shall be allowed to teach the same. This would prevent the employment of substitutes in grammar grades who hold certificates of the second, or primary grade.

1048. The holder of an expired certificate cannot, even with the consent of the Trustees, act as a substitute for another teacher. No person who is not the holder of a legal certificate in full force and effect, has a right to teach in the public schools.

1049. A person who does not hold a certificate cannot legally teach in any public school, and the Superintendent would be violating the law if he drew a warrant in payment for the services of a substitute in a city school, or in any other public school.

1050. No teacher has any right or authority to hire a substitute for any time whatever; this must be done by the Trustees, and the party employed must be the holder of a legal certificate in full force. The order for the salary of a substitute teacher must be made in favor of the substitute.

TERMS, MEANING OF.

1051. "Two miles from a school-house" means by the usually traveled road or trail, and not an air-line. Distances from county seats to the State capital or State prison are computed by the usually traveled route, and the same applies to the language "two miles from any school-house," as used in Section 1577.

1052. An ungraded school is one in which the various grades or classes are all taught by one teacher; a graded school is one in which each teacher has but one grade, or at most two, under his charge.

1053. The first school month means the first four weeks of the school term, including legal holidays, should any occur; the second school month means the second four weeks of the school term, including legal holidays, and so on.

1054. An old bachelor or a young one, who is keeping house, but who has no child or children under his guardianship, is not the head of a family as contemplated in the law. The ownership of land does not figure in such a case. (See Civil Code, Section 1261.)

1055. "One year" means the period of twelve calendar months, and not the period during which the school was maintained during the year.

1056. The words "exclusively for the support of schools," mean that the funds are to be used for whatever is absolutely necessary to enable schools to be maintained for the eight months in the year; that is, for the payment of teachers' salaries, purchase of fuel, purchase of necessary sup-

plies, payment of janitors, etc. These words shut out repairs on buildings, school furniture, painting, wood for the ensuing term and everything not actually necessary.

TEXT-BOOKS.

1057. Section 1874 requires that Boards of Education shall, "immediately upon their publication," file copies of newspapers containing advertisements inviting proposals for changes of text-books in the office of the Superintendent of Public Instruction. It is to be presumed that the Legislature, at the time of the passage of this provision, understood that there was some object to be attained by inserting it in the law. A compliance with this provision is as essential as is a compliance with any other legislative declaration. The local officer in any instance having failed to observe this provision, their proceedings are illegal, and not in compliance with the mandates of the law. Such an omission is a clear failure of official duty, and, if permitted, would have the effect of entirely defeating the object which the Legislature had in view in the passage of this provision of the law. It is a well-known rule of construction that officers in the performance of statutory duties are required strictly to follow those provisions which specify the manner in which they shall obtain jurisdiction to do a particular act, and any failure in this respect violates the entire proceedings.

While the question as to what constitutes a reasonable time in which to file a copy of the advertisements is one largely within the discretion of the Board, still, in any case, where the delay was such as to defeat the provision, the courts would undoubtedly review the action of the Board, and would probably set aside the proceedings.

1058. Copy-books are text-books, and can be supplied by the district only to children whose parents are unable to furnish them. Section 1620 does not apply to copy-books.

1059. Subdivision *second* of Section 1874 of the Political Code, refers to *change* of text-books, and not to an original adoption; and, therefore, does not circumscribe the action of a Board of Education in selecting those additional text-books necessary for the purpose of the school.

1060. There is nothing in the law to prevent the *adop-*

*tion* of a text-book at any time. The book adopted, however, must remain in force for four years. As no change can be made at any other time than in the months of May or June, a book adopted after those months could not be changed at the time that the Board will next advertise for proposals for changes of other text-books, but the book adopted would have to remain unchanged for nearly five years.

1061. A book from which no instructions are given, merely used to sing an opening piece from, cannot be considered a text-book ; and if the scholars are not compelled to buy it, and it does not interfere with the prescribed course of study, there can be no objection to its use.

1062. No book can be used as a text-book that is not on the list adopted by the County Board of Education. The County Board cannot authorize the use of books not on the list adopted by them, after having adopted a list to be used in the public schools of the county.

1063. Song books are text-books, and cannot be purchased with the library fund.

1064. If a certain class of books is not furnished by the State Board, under Article IX, Section 7, of the Constitution, then Section 1874 of the Political Code is not superseded as to such books. In regard to text-books not now provided for by the State, or not yet prepared under the authority of the State, I think the County Boards have the authority to adopt the same, and the contracts made should be until the State shall provide such books, but, in any event, not to exceed four years. (Attorney-General Johnson, January, 1888.

1065. A County Board of Education cannot prescribe in the course of study two sets of text-books to be used by the pupils.

1066. Copy-books are text-books, and they should be furnished by the pupils themselves.

1067. County Boards of Education have the power, and it is their duty, to prescribe and enforce a uniform series of text-books, according to Section 1771 of the Political Code, in regard to subjects upon which the State publishes no books. They must proceed under the provisions of Section 1874 of the Political Code, according to the ruling

of the Attorney-General. When books have been adopted under contract, in pursuance of Section 1874, and the time of the contract has expired, the same books must be continued in use, until legally changed, in accordance with the provisions of Section 1874. County Boards cannot legally make changes in text-books at any time or in any other manner than as provided by law, as given in Section 1874, except so far as the State publishes the books.

1068. Trustees can, in no case, determine the books to be used in their districts.

1069. A "recommendation" cannot, in any sense, be considered equivalent to an adoption legally made; therefore, a recommendation of a County Board would have no legal effect.

1070. If a certain text-book is in use, with whose publishers the contract has expired, and the County Board of Education "recommended" the use of a different book, districts following such recommendation and introducing such new book to the exclusion of the old, would be liable to the loss of twenty-five per cent. of their State School Fund, according to Section 1875 of the Political Code. Attorney-General Johnson says: "If the text-book recommended was not legally adopted by the County Board, as provided in Section 1874 of the Political Code," the district would be liable to lose, as above stated.

TIME, IN SCHOOL TERM.

1071. The time lost by Institute and legal holidays has no connection with the estimate for the eight months in which school must be taught. If a party has taught eight months, including the holidays and Institute week, in the eye of the law school has been maintained eight months. It is not necessary to make up loss of time occasioned by legal holidays or Institute days.

TOBACCO.

1072. If it proves that a pupil uses tobacco, except by direction or advice of his doctor, he should be directed not to use it; if he continues to use it, he should be punished for disobedience to the direction.

TRANSFER OF CHILDREN.

1073. Subdivision 15 of Section 1617 of the Political

Code does not give power to the Trustees of one district to receive children from another district, when contrary to the wishes of the latter.

1074. The arrangement to transfer pupils from one district to another must be made by the Trustees of both districts, and to the mutual satisfaction of both.

1075. Section 1617 of the Political Code provides that the Trustees of a school district have power to make arrangements with the Trustees of any other district for the attendance of such children in the school of either district as may be best accommodated therein. It is a matter left to the discretion of the district Trustees, and they are not compelled to admit to the school the scholars residing in other districts.

1076. If no arrangements have been made for the attendance of children in a district other than that in which they reside, the Trustees of the district in which they desire to attend must exclude them.

1077. The arrangement for the attendance of children in a district not their own must be made by the Trustees of both districts. It is only when they cannot agree that the County Superintendent may interfere, and then upon appeal to him by the parents of such children.

1078. By subdivision *15th* of Section 1617 of the Political Code, the Trustees have power to make arrangements with the Trustees of any other district about the attendance of children not belonging therein, and in case of non-agreement, the matter is remitted to the decision of the County Superintendent. Children from outside the district, if not admitted under this provision of the law, have *no right* to free education in that school. If admitted as pay scholars, it is for the Trustees to admit or refuse, and to settle the amount of tuition to be paid by the non-resident pupils.

1079. Subdivision 15 of Section 1617 gives the Superintendent the power to allow children to attend school in such district as their parents may select, upon the appeal mentioned in that section.

1080. Children residing in one district can be permitted to attend school in another district only by mutual arrangement between the Boards of Trustees in both districts.

The arrangement cannot be made by one Trustee, but by the Trustees of the district in which the children live with the Trustees of the district in which the children wish to attend. No individual Trustee has any power to perform any act, except as authorized by the Board of Trustees.

1081. Section 1617, subdivision 15, clearly indicates that the arrangement for pupils attending schools out of their own district must be made by a concurrence on the part of the Trustees of both districts and not simply with the Trustees of the district in which the pupils wish to attend. Proper discipline in the schools, if nothing else, would demand that the pupils should have the consent of the Trustees in their own district before they can be transferred to another.

1082. Under the law Trustees in one district are not authorized to receive pupils from another district without mutual arrangement between both bodies of Trustees, except, after appeal to the Superintendent, that officer decides in favor of the applicant for transfer. The law presupposes satisfactory reason for the transfer of pupils from one district to another.

TRAVELING EXPENSES.

1083. In my opinion, the necessary traveling expenses incurred by the Superintendent in visiting schools is as much a proper charge against the county as are stationery, lights, fuel, etc., for his office. In fact, as I view it, the Board of Supervisors of the county could, with as much consistency, refuse to furnish the Superintendent an office room as to refuse to allow him his necessary expenses incurred in visiting the schools of the county. (Attorney-General A. L. Hart, February, 1882.

1084. The County Superintendent of Schools is entitled to the payment of his necessary traveling expenses.

1085. Subdivision *sixth* requires every Superintendent of Schools of a county to visit every school within his county *at least once* during every year of his term of office. The first year commences as soon as he takes office. The law does not expect impossibilities, and therefore the Supervisors should provide the means to enable him to discharge his duty in this respect; that is, they should pay his traveling expenses.

1086. Section 164 of the County Government Act has no bearing upon the traveling expenses of a County Superintendent; it relates to the *compensation* which public officers receive in the shape of salary or fees. Traveling expenses are neither fees, nor salaries, nor compensation. The presumption of law is that the Supervisors, in performing their duty, will allow such claims for traveling expenses as are identical in amount with the sum advanced by the Superintendent in the performance of his duty. As the Superintendent neither gains nor loses by the operation, he is merely reimbursed, not compensated. His only compensation comes out of his salary. Nor is there anything in the County Government Act which can be construed as repealing Section 1552 of the Political Code. If it is unrepealed, it is, of course, as imperative as any other provision of law.

1087. The salary of a County Superintendent is in compensation for all services performed; but the traveling expenses while in the performance of duty are a totally different thing. They are not in the nature of compensation, or part compensation for services, nor in any sense emoluments. But they are reimbursements for the reasonable and actual outlays necessarily made by the County Superintendent in the performance of his duties. It would be unreasonable and unjust to require that officer to defray these traveling expenses out of his own pocket, and would result inevitably in the poor discharge, or in the non-discharge of his duty—a result which could never have been the intent of the law.

1088. Whoever travels will certainly find that his hotel bills *are a part* of his *actual* traveling expenses, and there is no doubt that Section 1532 should be construed to include such bills.

1089. Attorney-General Johnson has, since the last session of the Legislature, given it as his opinion that a provision for the payment of the traveling expenses of a County Superintendent of Schools is not providing an increase of salary, but a reimbursement for moneys paid out.

1090. John G. Pressley, Superior Judge of Sonoma County, in the case of F. McG. Martin v. Sonoma County, decided as follows:—

"This is an action brought by the County Superintendent of Schools for the amount of her actual and necessary traveling expenses in visiting schools.

"The present incumbent was elected in 1886, and went into office on the first Monday in January, 1887. Sonoma county, for the purpose of fixing the salaries of officers, is a county of the sixth class. Section 168 of the County Government Act fixes the salary of the Superintendent of Schools at two thousand dollars.

"Section 1552 of the Political Code was amended by the Legislature at the session of 1889 so as to read:

"'Section 1552. Each County Superintendent shall receive his actual, necessary traveling expenses, said expenses to be allowed by the Board of Supervisors, and to be paid out of the County General Fund, provided this amount shall not exceed ten dollars per district per annum. He shall also be allowed postage and expressage, payable out of the County School Fund, two dollars for each school district; *provided*, that in incorporated cities, each school containing three hundred pupils shall be considered equal to one school district.'

"By Section 9 of Article II of the Constitution it is provided that 'The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.'

"It is now contended on the part of the county that Section 1552 of the Political Code is not applicable to officers who were then elected, because to make it so applicable would be an increase of compensation, and, therefore, in conflict with the Constitution.

"The words 'compensation' and 'salary' are used in the Constitution synonymously. (See Sections 21 and 24, Article VI; Section 2, Article IX.) It is this 'salary' or 'compensatian' which the Legislature is forbidden to increase. But I do not perceive how the actual expenses of holding office, that must necessarily be paid by the officer before any official duty can be performed, can be called salary or compensation. No case has been decided by our Supreme Court directly in point; but the Constitution of the State of Illinois, in respect to increasing compensation of officers, is like the Constitution of this State. In the

case of Briscoe v. Clark County, 10 Rep., 141, the Supreme Court of that State held that it was the compensation for the personal discharge of official duty that the Board of Supervisors could not raise, and that the expenses were to be determined by the necessity which the business of the office should develop. That being so, the allowance for expenses could be increased. The expenses incidental to the discharge of the duties of many of the offices, both State and county, are paid from the public treasury; and I have never heard it contended that such payment could be considered as 'compensation' or 'salary.' Clerks, Assessors and Recorders are required by law, as a part of their duties, to record in the proper books the proceedings of the Courts, the assessment of property and the conveyance of property. As a matter of fact the necessary books for these records have always been provided at the public expense; and I have heard no question raised, nor has it ever, to my knowledge, been contended that the price of these books should be paid out of the amount allowed these officers for compensation or salary.

"By the Constitution of 1879 it is provided, Section 17, Article VI: 'Justices of the Supreme Court and Judges of the Superior Court shall severally, at stated times, during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election.' The Justices of the Supreme Court, created by the Constitution, were elected in 1879. In April, 1880, Section 47 of the Code of Civil Procedure was passed by the Legislature. That section, among other things, provides that 'The Justices and officers of the Supreme Court shall be allowed their actual traveling expenses in going to and from their respective places of residence upon the business of the Court, or to attend its sessions.' The constitutionality of this provision for paying the expenses of the Justices and officers of the Court has not been questioned in any judicial proceeding. And I can hardly believe that the learned and conscientious Justices of the highest tribunal of the State would allow their necessary traveling expenses, in addition to their salaries, to be paid out of the public treasury, unless they were well satisfied that such payment was not an increase of compensation for their services. The receipt of these expenses by these eminent jurists amounts practically to an

expression of opinion by them that the law under which these payments were made is not in conflict with the Constitution.

"I can see no difference between the payment of the expenses of these Justices and those of the Superintendent of Schools.

"It was contended that Section 32 of Article IV of the Constitution prevents the application of Section 1552 of the Political Code to the payment of expenses of officers who had been elected when the section was amended. I am of the opinion that the 'extra compensation or allowance' which the Legislature has no power to grant, or authorize any county or municipal authority to grant, has reference to remuneration for services rendered, and not a reimbursement for expenses incidental to the discharge of official duties. The Court is of the opinion that the plaintiff is entitled to a judgment for $12.75, the amount of her claim, and it is ordered that judgment be entered accordingly."

1091. Section 9 of Article XI of the Constitution, forbidding the compensation of any county, city, town, or municipal officer from being increased after his election or during his term of office, only applies to the compensation for services to be rendered, and does not forbid an allowance for the incidental expenses of the office, to be determined by the necessity which the business of the office may develop. (Kirkwood v. Soto, 87 Cal., 394.)

1092. The County Government Act fixing a salary for County Superintendents of Schools "as compensation for services required of them by law, or by virtue of their office," does not prevent the application of the amendment to Section 1552 of the Political Code, made in March, 1889, allowing each County Superintendent his traveling expenses, and other incidental expenses connected with the office, to a County Superintendent holding office at the time of the amendment. (Kirkwood v. Soto, 87 Cal., 394.)

TREASURER, COUNTY.

1093. It is not the duty of the County Treasurer to report to the Superintendent the amount of money on hand in the shape of school funds in the treasury. He reports such fact to the Auditor, and the Auditor keeps a record of these funds open to the inspection of the public.

TRUSTEES.

1094. No one can be a Trustee who is not a citizen of the United States and of the State of California. Such citizen may be either a male or a female.

1095. No single Trustee, as an individual, has any authority in a school. Boards of Trustees and all deliberative bodies act by vote of the majority.

1096. The Trustees are empowered to carry out, or to see carried out, the laws and regulations made by the constituted authorities in the State Board of Education.

1097. A Board of Trustees act by vote of the majority at a session duly called.

1098. The powers and duties of Trustees are clearly laid down in Section 1617 of the Political Code. Trustees once duly elected are to exercise their sound discretion, in conformity to law, in the discharge of their duties, doing that which they believe to be for the best interests of the schools under their charge. While it is to be presumed that public officials will listen with respect to the views and wishes of their constituents, they are not bound, legally or morally, to obey or act on a petition on any subject coming from any source.

1099. It is the duty of the school officers to see that the teacher performs his duties by teaching during the school hours. If he practices medicine, or performs or attends to other business, during the time for which his services are paid, they should refuse to pay him for time given up to his private business.

1100. When a School Trustee willfully disobeys the law, the proper thing to do is to lay the matter before the District Attorney, and he will either give such advice or take such steps as may be necessary in the matter.

1101. Section 1617 of the Political Code gives to the Trustees the power to prescribe and enforce rules, not inconsistent with law or those prescribed by the State Board of Education, for their own government and the government of the schools. It does not seem that they overstep their authority when they require a Principal or a teacher to consult them previous to inviting any person to address the pupils in a formal manner, and particularly when the regular work of the school is to be interrupted for any

considerable time. It is true that Trustees generally do not interfere, but leave such things to the discretion and good faith of the Principal or teacher. But when they demand to be previously consulted, the Principal or teacher ought to cheerfully comply.

1102. One Trustee can do nothing by himself. The Board acts by its majority in a meeting duly called.

1103. Trustees cannot be employed to assist in building a school-house in their own district.

1104. It is a direct violation of the law for Trustees to close school on account of religious meetings of any denomination; and if they do violate the law in this way, the teacher is entitled to pay.

1105. The Trustees, in drawing their orders on the Superintendent, should always designate the fund drawn upon.

1106. The Trustees should always designate the fund drawn upon in their orders upon the County Superintendent. If they fail to do this, the Superintendent need not necessarily interpret the order to be drawn on the county fund.

1107. Trustees are the sole judges of the degree of consideration to be given to petitions made to them by the patrons of the school for a change of teachers. In other words, the School Trustees have exclusive control of the matter of employing teachers, and neither the Superintendent of Public Instruction nor the County Superintendent of Schools has the right to interfere. Nobody has this right.

1108. One of the Trustees cannot be employed in the capacity of carpenter to repair the school building, unless he donates his services.

1109. Section 1876 of the Political Code forbids the furnishing of wood, water, stationery, or any supplies by a member of the Board of Trustees. Such contracts would be void, and any Trustee making such contracts may be removed from office.

1110. If Trustees' actions are such as to constitute a public offense, legal proceedings can be commenced against them. (See Section 177, Penal Code.)

1111. A Trustee who is Clerk of the district cannot teach the district school, sign his own warrant, and draw his salary. (See Section 1876 of the Political Code.)

1112. A Trustee can be dismissed from office for not visiting a school at least once a year. Section 1617, subdivision 19, makes it the positive duty of every Trustee to visit every school in his district at least once in each term.

1113. The resignation of a Trustee should be tendered to and accepted by the County Superintendent.

1114. A Trustee engaged in a general merchandise business is debarred by Section 1876 from having any transaction with the school of his district whereby he receives any of the school money in pay therefor.

1115. If Trustees close a school before an eight months' school has been maintained and use the money for the purchase of any articles or for repairs, they plainly violate the law, and the County Superintendent will not be at liberty to draw a requisition for an order in payment of bills contracted in violation of the law.

1116. Trustees can transact business legally only at regular or special meetings. (See Section 1617 of the Political Code, subdivision 1.) At every meeting there should be a presiding officer. When the Board organizes they should elect one of their number as President of the Board, and one as Clerk. Trustees very often transact business in a very irregular manner, and often without calling a meeting at all. This is all wrong and in violation of the law above quoted.

1117. No Trustee, member of a Board of Education, or member of a High School Board can delegate his powers to another. Officers cannot appoint proxies.

VACANCY.

1118. The Superintendent has not the power to fill vacancies in the Board of Education. The Board of Supervisors alone have this power.

1119. When a Trustee has removed from the limits of his district, he vacates his office. He vacates his office by reason of any of the items specified in Section 996 of the Political Code.

1120. The mere fact that a Trustee moves out of a dis-

trict does not of itself make his office vacant. He must have moved away with the intention of remaining away. If he intended to return again to the place from which he moved, his residence has not been changed. If, however, the incumbent of a local office ceases to be an inhabitant of the district, his office becomes *ipso facto* vacant, under the provisions of Section 996, Political Code.

1121. A Trustee must reside in the district. His office would not become vacant, however, if he were to move out of the district temporarily, with the intention of returning. The fact of his name being on the great register and of his business in the district would not of themselves be sufficient. The matter of residence depends upon intention. (Political Code, Sec. 52.)

1122. If a Trustee is employed in another county, claiming his absence to be temporary, and occasionally making visits into his district, and voting there on the day of election for Trustee, his office does not become vacant. He is still a resident of his district, and is still entitled to his office.

1123. Section 996 of the Political Code, subdivision 5, makes a vacancy when a Trustee removes from the district, whether such Trustee resigns or not; and it is the duty of the Superintendent to fill the vacancy by appointment.

1124. If a Trustee goes to work temporarily outside of the boundary of his district, leasing land owned by himself in said district, but reserving a room on such leased land for a home for himself when out of employment, he retains his residence in his district, and does not forfeit his office; especially is this the case if he attends properly to his duties as Trustee in his district.

1125. If the clerk has moved out of the district, or if any Trustee moves out thereof, there will exist a vacancy; this vacancy must be filled by the Superintendent.

1126. Failure to elect a Trustee causes a vacancy. (See Section 1614 of the Political Code as amended by the late Legislature.)

1127. If a Trustee neglects or refuses for the period of three months to attend to the duties of his office, his office becomes vacant, unless he is prevented by sickness, or is

absent from the State by proper permission. (See Section 996, subdivision 7, of the Political Code.)

1128. A vacancy occurring in a Board of Education in a city of the fifth class must be filled by the members of the Board of Education, and not by the City Trustees of such city.

1129. The removal of a School Trustee from the limits of the district immediately vacates his office.

VACATIONS.

1130. If school was closed on the first day of May—or May-day—by order of the Board of Trustees, the teacher is not compelled to make good the lost day, because, if the Trustees could declare a vacation of one day, and require the teacher to make up the same, they could, with equal propriety, declare a vacation of ten, twenty, fifty, or any number of days, holding the teacher to the same conditions. If, however, the school was closed without authority from the Trustees, it is the duty of the teacher to make good the lost time.

1131. If a teacher is engaged to teach for a year, and during the course of that year the Trustees who employed such teacher declare a vacation of one week, the teacher is entitled to pay during that week.

1132. If the vacation ordered by the Trustees of a district falls within the period covered by the contract, the teacher would be entitled to pay for the vacation, unless it is specially excepted by the terms of the contract.

1133. A vacation ordered, no matter for what cause, does not cause the term to end and a new term to begin after the expiration of the vacation. The vacation occurring within the school year, simply holds the school exercises in abeyance during the continuance of such vacation. When the school exercises are resumed, the resumption does not cause a new term to commence for any purpose.

1134. For the usual and ordinary vacations of the school year, a teacher can make no just claim for salary, unless the contrary is specifically mentioned in the contract; but, if a vacation is ordered by the Trustees at other than the usual times, or for a period longer than the usual period, the teacher can justly claim salary for the excess.

VOTING.

1135. It is not legal for women to vote for School Trustees. The Constitution of California as yet gives the elective franchise only to *male* citizens.

1136. A Trustee cannot vote by proxy; nor can a Trustee absent from the meeting of Trustees delegate to another the power to cast his vote.

1137. Any male citizen who has been a resident of the State for one year next preceding an election, of the county ninety days, of the election precinct thirty days, and who has his name on the great register of the county, is entitled to vote at any school election.

WELLS.

1138. Where it is necessary, the Trustees have the power to have a well dug and pay for it out of the school fund. It is as necessary as are those suitable out-houses, fruit and ornamental trees, which the Superintendent may require the Trustees to provide.

1139. If there is a balance on hand after an eight months' school has been kept, and a well has been dug, a pump purchased, and a fence built around the school grounds, these things can be paid for as bills outstanding against the district.

RETURN TO → CIRCULATION DEPAI
202 Main Library

| LOAN PERIOD 1 | 2 |
| --- | --- |
| HOME USE | |
| 4 | 5 |

ALL BOOKS MAY BE RECALLED AFTER 7 DAYS
Renewals and Recharges may be made 4 days p
Books may be Renewed by calling 642-3405.

DUE AS STAMPED BE

JUL 30 1992

AUTO DISC AUG 30 '91

DEC 15 1996

RECEIVED

DEC 12 1996

CIRCULATION DEPT.

YA 05699
Cal 2 C
Barry v. Lovell
YA 05699
3 Cal 414
U.C. BERKELEY LIBRARIES
C031198954
2 72
Apr 23, 1880

6
7
8
9
10
A
B
C
D
E
F
G
H

F
G
H
I
J
K
L
M